

Grange, No. 414, Westmore; Chester Grange, No. 321, Chester; White River Grange, No. 53, Royalton; and East Montpelier Grange, No. 312, East Montpelier, all in the State of Vermont, against Canadian reciprocity; to the Committee on Ways and Means.

By Mr. REEDER: Petition of citizens of Kansas, against a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. SMITH of Michigan: Petition of numerous citizens of Troy, Mich., against Canadian reciprocity; to the Committee on Ways and Means.

Also, petition of Enterprise Grange, No. 809, of Genesee County, and citizens of Livingston County, Mich., for a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. STERLING: Petition of Second Presbyterian Church, Bloomington, Ill., for the Miller-Curtis bill; to the Committee on the Judiciary.

Also, petition of John B. Drake & Co., Kappa, Ill., against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. TILSON: Protest of Killingworth Grange, Patrons of Husbandry, No. 66, of Killingworth, Conn., against Canadian reciprocity and tariff board; to the Committee on Ways and Means.

Also, petitions of Killingworth Grange, Konomac Grange, Colchester Grange, and Montville Grange, State of Connecticut, against a parcels-post system, but favoring low postage rates on packages; to the Committee on the Post Office and Post Roads.

Also, memorial of district councils of United Carpenters of New Haven, Conn., in behalf of restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Highland and Plainfield Granges, in favor of a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. TOWNSEND: Petition of pastors of Jackson County and the Central Woman's Christian Temperance Union, Detroit, for the Miller-Curtis bill; to the Committee on the Judiciary.

Also, petition of the American Woman's League, Battle Creek, Mich., for the indemnity bill of the Lewis Publishing Co.; to the Committee on Claims.

By Mr. WASHBURN: Petition of teachers and students of South Lancaster Academy, against Senate bill 404; to the Committee on the District of Columbia.

By Mr. WEBB: Petition of citizens of Henry, N. C., for a general parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of business men of Charlotte, N. C., against a parcels post; to the Committee on the Post Office and Post Roads.

Also, petitions of Park Council, Charlotte; Virgin Council, Cornelius; Council No. 68; Hickory Council; Haw River Council, No. 28; Smith B Council, No. 71; Fred Green Council, East Durham; Estato Council, No. 27, Vale, Junior Order United American Mechanics; and Washington Camp No. 27, Patriotic Order Sons of America, Gastonia, all in the State of North Carolina, urging immediate enactment of House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. WOOD of New Jersey: Petition of New Jersey State Teachers' Association for bill appropriating \$75,000 for United States Bureau of Education; to the Committee on Education.

Also, petition of Locktown (N. J.) Grange, No. 88, Patrons of Husbandry, against reciprocal tariff with Canada; to the Committee on Ways and Means.

SENATE.

MONDAY, February 20, 1911.

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. Ulysses G. B. Pierce, D. D., offered the following prayer:

Almighty God, our heavenly Father, unseen but not unknown, in our great loss we take refuge in Thee, who hast been our refuge in all generations. In our sorrow Thy pity revives our fainting souls, and in our distress Thou hearest us as we call upon Thee. Thou hast indeed been unto us like the shadow of a great rock in a weary land.

And now, O heavenly Father, in our affliction give unto us the peace that floweth as a river. In our sorrow grant unto us the comfort that is born of hope and the faith that is rooted in love. As we meditate upon the life of Thy servants whom Thou hast called from our midst, make us worthy of the fellowship of the great cloud of witnesses with which Thou hast surrounded us.

And unto Thee, who art the God of all comfort and of all grace, will we ascribe praise now and for evermore. Amen.

THE JOURNAL.

The VICE PRESIDENT. The Secretary will read the Journal of the proceedings of the last legislative day.

Mr. HEYBURN. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Crane	Guggenheim	Shively
Bankhead	Crawford	Heyburn	Simmons
Borah	Culberson	Johnston	Smith, Md.
Bourne	Cullom	Jones	Smith, S. C.
Brandegee	Curtis	Kean	Smoot
Briggs	Davis	La Follette	Stephenson
Bristow	Depew	Lodge	Sutherland
Brown	Dick	McCumber	Taliaferro
Bulkeley	Dillingham	Nelson	Taylor
Burkett	Dixon	Overman	Thornton
Burnham	du Pont	Page	Tillman
Burrows	Fletcher	Paynter	Warner
Burton	Flint	Penrose	Warren
Carter	Foster	Percy	Watson
Chamberlain	Frye	Perkins	Wetmore
Clapp	Gallinger	Rayner	Young
Clark, Wyo.	Gamble	Root	
Clarke, Ark.	Gore	Scott	

The VICE PRESIDENT. Seventy-three Senators have answered to the roll call. A quorum of the Senate is present. The Secretary will read the Journal of the last legislative day's proceedings.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. BORAH and by unanimous consent, the further reading was dispensed with and the Journal was approved.

READING OF WASHINGTON'S FAREWELL ADDRESS.

The VICE PRESIDENT. The Chair announces the appointment of the junior Senator from Iowa [Mr. YOUNG] to read Washington's Farewell Address to the Senate on Wednesday, in accordance with the rule of the Senate.

RAILWAY MAIL SERVICE.

The VICE PRESIDENT laid before the Senate a communication from the Postmaster General, transmitting, in response to a resolution of the 14th instant, certain information relative to the number of opportunities for promotion of railway mail clerks resulting from death, removal, or otherwise during the past fiscal year, and the number of promotions actually made, etc. (S. Doc. No. 826), which was ordered to lie on the table and to be printed.

BUSH V. UNITED STATES.

The VICE PRESIDENT laid before the Senate a communication from the chief justice of the Court of Claims, requesting the return to the court of the findings in the case of Bush v. United States, No. 14860-109, certified to the Senate January 30, 1911 (S. Doc. No. 827), which was referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, transmitted to the Senate resolutions of the House on the life and public services of Hon. ALEXANDER S. CLAY, late a Senator from the State of Georgia.

The message also transmitted to the Senate resolutions of the House on the life and public services of Hon. WALTER PRESTON BROWNLOW, late a Representative from the State of Tennessee.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and they were thereupon signed by the Vice President:

S. 6953. An act to authorize the Government to contract for impounding, storing, and carriage of water, and to cooperate in the construction and use of reservoirs and canals under reclamation projects, and for other purposes;

H. R. 8699. An act for the relief of the relatives of William Mitchell, deceased;

H. R. 26018. An act for the relief of James Donovan;

H. R. 26685. An act to authorize E. J. Bomer and S. B. Wilson to construct and operate an electric railway over the national cemetery road at Vicksburg, Miss.; and

H. R. 26722. An act for the relief of Horace P. Rugg.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a joint memorial of the Legislature of the State of Oregon, which was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

Senate joint memorial 7.

To the honorable Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the Legislative Assembly of the State of Oregon, respectfully represent that:

Whereas the development of the arid lands of the State of Oregon by irrigation and occupancy by home builders in small tracts under a

high state of cultivation is of vital importance to all the interests of the State of Oregon; and

Whereas under United States reclamation projects in Oregon, and particularly the Umatilla project, a large body of land is held by desert-land entrymen; and

Whereas under desert-land laws as amended by the reclamation act, such entrymen can not secure patent to their entries until all the installments on the purchase price of the water right therefor are paid, thus necessitating, under the law and regulation, a delay of 10 years in the issuance of patents, thereby making it impracticable to dispose of the land to settlers in small tracts; and

Whereas we believe the Government will be better secured for the return of its money invested in reclaiming such lands by a lien against patented lands highly improved by building homes and intensified cultivation than under present regulation: Therefore be it

Resolved, That your memorialists favor the enactment of a law by the Congress of the United States providing that patents shall issue for desert claims within Government irrigation projects upon satisfactory final proofs of reclamation under desert-land laws subject only to the lien of the Government upon the land for the unpaid balance to become due and payable on the water rights; and be it

Resolved, That the secretary of state is directed to transmit a copy of this memorial by telegram to our delegation in Congress.

Adopted by the senate February 6, 1911.

BEN SELLING, *President of the Senate*.

Adopted by the house February 7, 1911.

JOHN P. RUSK, *Speaker of the House*.

UNITED STATES OF AMERICA,
STATE OF OREGON,
OFFICE OF THE SECRETARY OF STATE.

I, F. W. Benson, secretary of state of the State of Oregon, and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of senate joint memorial No. 7 with the original thereof, which was adopted by the senate February 6, 1911, and adopted by the house February 7, 1911, and that it is a correct transcript therefrom and of the whole of such original.

In testimony whereof, I have hereunto set my hand and affixed hereto the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 13th day of February, A. D. 1911.

F. W. BENSON, *Secretary of State*.

The VICE PRESIDENT presented a joint memorial of the Legislature of the State of Oregon, which was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

Senate joint memorial 6.

To the honorable Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the Legislative Assembly of the State of Oregon, respectfully represent that—

Whereas Representative MONDELL, of Wyoming, has introduced a bill in Congress to prohibit the suspension of final proofs in land entries on protests of special agents and others unless such protests are based on good and sufficient reasons under the law, providing that when such protests are made the reasons therefor shall be transmitted promptly by the local office to the entrymen, who shall be given a prompt hearing; and

Whereas we believe much injury has been wrought entrymen in the West, causing much delay to the progress and the development of western lands by such suspension, and that a law should be passed to put a stop to indiscriminate suspensions on mere suspicion or informal reports of agents and others when there is no real proof to substantiate such action: Therefore be it

Resolved, That your memorialists favor the bill proposed by Representative MONDELL, of Wyoming, and urge its immediate enactment into a law; and be it

Resolved, That the secretary of state is directed to transmit a copy of this memorial by telegram to our delegation in Congress.

Adopted by the senate February 6, 1911.

BEN SELLING, *President of the Senate*.

Adopted by the house February 7, 1911.

JOHN P. RUSK, *Speaker of the House*.

UNITED STATES OF AMERICA,
STATE OF OREGON,
OFFICE OF THE SECRETARY OF STATE.

I, F. W. Benson, secretary of state of the State of Oregon, and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of senate joint memorial No. 6 with the original thereof, which was adopted by the senate February 6, 1911, and adopted by the house February 7, 1911, and that it is a correct transcript therefrom and of the whole of such original.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 13th day of February, A. D. 1911.

F. W. BENSON, *Secretary of State*.

The VICE PRESIDENT presented a joint memorial of the Legislature of the State of Oregon, which was referred to the Committee on Pensions and ordered to be printed in the RECORD, as follows:

Senate joint memorial 5.

To the Congress of the United States, greeting:

Whereas the survivors of the various Indian wars of the United States are men who bore a conspicuous part in the development of the country by rendering service of an arduous and dangerous character, for which they have never received adequate recognition from those who have profited by their courage and self-sacrifice:

Therefore we, your memorialists, the Legislative Assembly of the State of Oregon, earnestly pray your honorable body to enact into law the bill for the purpose introduced in the House of Representatives on January 12, 1911, by Hon. W. C. HAWLEY, of Oregon, and entitled "A

bill to provide pensions for the officers and soldiers of the Indian wars of the United States which occurred prior to the year 1880."

Adopted by the senate January 31, 1911.

BEN SELLING, *President of the Senate*.

Adopted by the house February 8, 1911.

JOHN P. RUSK, *Speaker of the House*.

UNITED STATES OF AMERICA,
STATE OF OREGON,
OFFICE OF THE SECRETARY OF STATE.

I, F. W. Benson, secretary of state of the State of Oregon and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of senate joint memorial No. 5, with the original thereof, which was adopted by the senate January 31, 1911, and adopted by the house February 8, 1911, and that it is a correct transcript therefrom and of the whole of such original.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 13th day of February, A. D. 1911.

F. W. BENSON, *Secretary of State*.

The VICE PRESIDENT presented a memorial of Kelzar Grange, No. 440, Patrons of Husbandry, of North Lovell, Me., and a memorial of sundry citizens of Saginaw West Side, Mich., remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented a memorial of sundry citizens of Cleveland, Ark., remonstrating against the passage of the so-called parcels-post bill, which was referred to the Committee on Post Offices and Post Roads.

He also presented the memorial of A. M. Neece, of Holland, N. Mex., remonstrating against the passage of the so-called rural parcels-post bill, which was ordered to lie on the table.

Mr. FRYE presented memorials of Seaside Grange, No. 171, of Bristol; Mountain Grange, No. 331, of Blaine; Otisfield Grange, of Otisfield; Monmouth Grange, of Monmouth; Boothbay Grange, of Boothbay; Sagadahoc Grange, of Bowdoin; Jefferson Grange, of North Whitefield; Victor Grange, of Searsmont; North Franklin Grange, of Phillips; and Sandy River Grange, of Phillips, all of the Patrons of Husbandry; of C. A. Parks, secretary-treasurer of the International Brotherhood of Stationary Firemen, of Lisbon Falls; of the Board of Trade of Livermore Falls; of Local Union No. 69, International Brotherhood of Stationary Firemen, of Millinocket; and of Local Union No. 22, International Brotherhood of Pulp, Sulphite, and Paper Mill Workers, of Solon; of the International Paper Co., of Enfield; of Local Union No. 15, International Brotherhood of Paper Makers; of W. H. Mihou, Eugene R. Call, H. A. Hooper, and T. A. Sherey, of West Enfield; and of William A. McKenney, of Lisbon Falls, all in the State of Maine, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

Mr. BROWN. I present resolutions adopted by the Senate of the Legislature of the State of Nebraska, which I ask may be printed in the RECORD and referred to the Committee on Irrigation and Reclamation of Arid Lands.

There being no objection, the resolutions were referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed in the RECORD, as follows:

Whereas there is now pending in our National Congress H. R. 30799, by Mr. KINKAID of Nebraska, providing for graduated payments and a longer time than 10 years in which to repay the construction charges under Government irrigation projects as now provided for by law, and

Whereas it appears that the desert lands irrigated by the Interstate Canal, in Nebraska, can not be immediately depended upon to provide a living for the settler and his family and make so large a yearly payment as the reclamation act and the regulations of the Interior Department now require; and

Whereas it has been actually demonstrated that these lands will not produce more than one good crop until alfalfa has been grown for two or three years; and

Whereas the abundant productiveness of valuable crops under the other canals have positively proven that it is only a matter of time for development when these lands will fulfill the most sanguine expectations; and

Whereas the season of 1910 has been most unfavorable for agriculture in that territory, and that the settlers under said Interstate Canal are now in distressed circumstances and there is pressing need for immediate action on the part of Congress to enact into law a more suitable system of payments, making the same light during the first years and heavier later when the lands have been developed; and

Whereas we believe the homestead laws should be and were intended for the poor man's benefit, and that under the law returning all payments within 10 years the poor man is positively barred from completing his payments and gaining title to the lands he may have entered under said reclamation act: Therefore be it

Resolved, That the State Senate of Nebraska in regular session assembled heartily indorse H. R. 30799 and any similar legislation along said lines and ask our Senators and Representatives in the National Congress to give same their active support; and be it further

Resolved, That copies of this resolution be forwarded to our Senators and Representatives in Washington and to the honorable Secretary of the Interior.

Mr. DICK presented petitions of Switchmen's Local Union of Lima; of International Molders' Union, No. 283, of Hamilton; of Carpenters and Joiners' Local Union of Hamilton; and of the Travel Class, of Bluffton, all in the State of Ohio, praying for the repeal of the present oleomargarine law, which were referred to the Committee on Agriculture and Forestry.

He also presented petitions of Carpenters and Joiners' Local Union, No. 637, of Hamilton; of the Central Labor Union of Toledo; of Local Council No. 5, of Maimeville; of Edward Lawler, of Ironton; Harmony Council, of Cincinnati; Ocean City Council, of Cincinnati; Walnut Hills Council, of Cincinnati; Fairmount Council, of Cincinnati; Southern Ohio Council, of Cincinnati; Eden Park Council, of Cincinnati; Bethlehem Council, of Cincinnati; Concord Council, of Cincinnati; Woodward Council, of Cincinnati; Addison Council, of Addison; Lockland Council, of Lockland; Shadyside Council, of Shadyside; Continental Council, of Port William; Sedalia Council, of Sedalia; Southern Star Council, of Mount Carmel; Guiding Star Council, of St. Bernard; Star Council, of Gallion; Westwood Council, of Cheviot; Athens Council, of Athens; and of Favorite Council, of Piqua, of the Junior Order United American Mechanics; and of Washington Camp, No. 2, Patriotic Order Sons of America, of Cincinnati; of Washington Camp, No. 86, Patriotic Order Sons of America, of Columbus; and of Local Union No. 9, American Federation of Labor, of East Liverpool; of Local Union No. 104, American Federation of Labor, of Dayton; and of Independent Council, No. 106, Daughters of America, of Piqua, all in the State of Ohio, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

He also presented a memorial of the Franklin County Bar Association, of Columbus, Ohio, remonstrating against the enactment of legislation providing additional terms for the district court at Portsmouth, Ohio, which was referred to the Committee on the Judiciary.

He also presented memorials of Commercial Club of Gallion; of Culter & Seip Co., of Chillicothe; of the W. Bingham Co., of Cleveland; of Local Grange No. 1427, Patrons of Husbandry, of Adena; and of sundry citizens of Urbana, all in the State of Ohio, remonstrating against the passage of the so-called rural parcels-post bill, which were ordered to lie on the table.

He also presented a memorial of sundry citizens of Newark, Ohio, remonstrating against any change being made in the rate of postage on periodicals and magazines, which was ordered to lie on the table.

He also presented a petition of the Sheldon Dry Goods Co., of Columbus, Ohio, praying for the establishment of a permanent tariff board, which was ordered to lie on the table.

He also presented petitions of the Columbus Envelope Co., of Columbus; the Associated Daily Newspapers' Convention, at Columbus; and the Somerset Press, of Somerset, in the State of Ohio, praying for the enactment of legislation to prohibit the printing of certain matter on stamped envelopes, which were referred to the Committee on Post Offices and Post Roads.

He also presented petitions of the Central Labor Union of Canton, of International Association of Machinists, No. 147, of Springfield, and of the Central Labor Union of Toledo, all in the State of Ohio, praying for the construction of United States battleships in Government navy yards, which were referred to the Committee on Naval Affairs.

Mr. WETMORE presented a memorial of the Society of Friends, of Smithfield, Mass., remonstrating against any appropriation being made for the fortification of the Panama Canal, which was referred to the Committee on Inter-oceanic Canals.

Mr. KEAN presented the petition of Henry H. Croft, of Blue Anchor, N. J., praying for the passage of the so-called old-age pension bill, which was ordered to lie on the table.

He also presented memorials of the Burlington County Board of Agriculture; of sundry citizens of Freehold; of John W. Campbell, of Newark; of Hopewell Grange, No. 16, Patrons of Husbandry, of Shiloh; and of Local Grange No. 132, Patrons of Husbandry, of Cold Spring, all in the State of New Jersey, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented memorials of Charles W. Goodwin, jr., president of the Typographical Union of Camden; of Elmer Throssell, president of the Typographical Union of Newark; of J. L. Egan, president of the Typographical Union of Rahway; of Windsor R. Jaeger, secretary of Typographical Union No. 94, of Jersey City; of the Typographical Union of Somerville; of Harry W. Thomas, secretary of the Typographical Union of Plainfield; of Roland B. Scull, of Camden; of Winfield T. Keegan, of Jersey City; of sundry citizens of Hammonton; of M. L. Smalley, of Mount Holly; of Arthur MacKinnon, of Cald-

well; of T. Walker, of Newark; of R. W. Burchard, of Passaic; of A. E. Ferguson and B. B. Ferguson, of Westmont; and of C. Richard Redington, of Bernardsville, all in the State of New Jersey; of the Industrial Press, and Robert H. Ingersoll & Bro., of New York City, N. Y., remonstrating against any increase in the rate of postage on periodicals and magazines, which were ordered to lie on the table.

He also presented petitions of Washington Camps No. 110, of Cold Spring, and No. 84, of Gloucester City, Patriotic Order Sons of America; of Local Union No. 121, United Brotherhood of Carpenters and Joiners, of Bridgeton; and of the Central Labor Union of Camden, all in the State of New Jersey, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

He also presented the petition of Charles B. Moyer, secretary of the New Jersey State Teachers' Association, of Atlantic City, N. J., praying that an appropriation of \$75,000 be made for the extension of the work of the Bureau of Education, which was referred to the Committee on Education and Labor.

Mr. BORAH. I present a concurrent resolution of the Legislature of the State of Idaho, which I ask may be printed in the Record and referred to the Committee on Public Lands.

There being no objection, the concurrent resolution was referred to the Committee on Public Lands and ordered to be printed in the Record, as follows:

Senate concurrent resolution 5.

Be it resolved by the Legislature of the State of Idaho:

Whereas by an act dated July 3, 1890, Congress granted to the State of Idaho about 3,000,000 acres of public lands, including sections 16 and 36 in every township of the State, for the support of common schools and in aid of various public institutions, with the right where sections 16 and 36, or any part thereof, had been sold or otherwise disposed of by or under the authority of any act of Congress to select other lands equivalent thereto in legal subdivisions of not less than one-quarter section and as contiguous as may be to the section in lieu of which the same was taken; and

Whereas by an act dated August 18, 1894, Congress granted to the State of Idaho the right to apply for the survey and withdrawal of townships of public lands then remaining unsurveyed and that such townships should be reserved upon the filing of the application of said survey from any adverse appropriation by settlement or otherwise, except under rights that might be found to exist of prior inception, for a period to extend from such application for survey until the expiration of 60 days from the date of the filing of the township plat of surveys in the proper district land office; and pursuant to said act of Congress the State of Idaho made application for the survey of a large number of townships of public lands within the State of Idaho for the purpose of selecting the quota of lands donated the State; and

Whereas the President of the United States has, by proclamations, established certain forest reserves within the State of Idaho embracing more than 40 per cent of the total area of the State, including sections 16 and 36 aforesaid, and the Department of Interior has by rules and regulations denied the right of the State of Idaho to perfect its selections of public lands in townships now included in the forest reserves, but which were not included within the forest reserves at the time of the State's application for the survey thereof; and

Whereas the State of Idaho now has approximately 1,000,000 acres, consisting of sections 16 and 36 in the forest, military, and other reservations established by the authority of the United States; and

Whereas there seems to be a disposition on the part of the United States Government to retain for an indefinite future time the said forest reserves as now constituted; and

Whereas the United States Government, by its courts and officers, holds that the State of Idaho has no vested interest in said lands and has instituted various suits against this State and its lessees for removing timber from the said lands, and has refused to admit evidence in its courts by private survey of the identity of said sections 16 and 36 within the said reserves, and has refused to make Government survey of said sections aforesaid in the reserves aforesaid; and

Whereas under said conditions said lands are to all intents and purposes lost to the said State of Idaho; and

Whereas the Secretary of the Interior has announced that he is about to promulgate a ruling that the State of Idaho shall no longer be allowed to use unsurveyed sections 16 and 36 in forest, military, and other reservations of the United States in this State as a base for the selection of other public lands; and

Whereas if such ruling be promulgated, it would result in the withholding for many years from settlement, sale, and use of nearly 1,000,000 acres of said lands granted to this State by the Federal Government and amounting to the value of more than \$20,000,000, thus producing and effecting by such ruling to be promulgated a highly and incalculably disastrous effect upon the school funds of this State and the future growth of the population and resources of this Commonwealth: Therefore be it

Resolved, That the Representatives of Idaho in Congress be, and they hereby are, directed to aid the State board of land commissioners in bringing about a settlement of the conditions now existing, as aforesaid, in regard to the said unsurveyed sections 16 and 36 within the State of Idaho, so Idaho may come into possession of the land granted to it by the United States Government, or lands equivalent thereto: *Provided*, That nothing herein contained shall be construed as requesting or permitting the commission herein provided for, or Congress, or the department to do any act which will in any manner deprive the settlers upon the public domain of the United States within the State of Idaho of any rights they now have or to give to the State of Idaho any rights to such lands by reason of the attempted selection of said land in lieu of attempted relinquishment of sections 16 and 36 heretofore made to the lands claimed by any of such settlers: And be it further

Resolved, That a committee, consisting of the attorney general of the State of Idaho, a member of the senate, appointed by the president of the senate, and a member of the house of representatives, to be appointed by the speaker of the house, be, and the same hereby is, appointed to confer with the Secretary of Interior and the Representatives of Idaho in Congress in the matter of the settlement of the rights

of the State of Idaho to the said unsurveyed land hereinbefore in this resolution mentioned and to take such measures as to them shall seem best for the advancement of the best interests of the State of Idaho. Such necessary expenditures in the way of railroad fare to and from Washington, hotel bills, and incidental necessary expenses as may be incurred by the said committee shall be a charge against the State of Idaho and shall be provided for in the general appropriation bill.

I hereby certify that the within senate concurrent resolution No. 5 originated in the senate of the eleventh session of the Legislature of the State of Idaho.

CHAS. W. DEMPSTER,
Secretary of the Senate.

The within senate concurrent resolution No. 5 passed the senate on the 2d day of February, 1911.

L. H. SWEETSER,
President of the Senate.

The within senate concurrent resolution No. 5 passed the house of representatives on the 2d day of February, 1911.

CHARLES D. STOREY,
Speaker of the House of Representatives.

STATE OF IDAHO,
DEPARTMENT OF STATE.

I, Wilfred L. Gifford, secretary of state of the State of Idaho, do hereby certify that the annexed is a full, true, and complete transcript of senate concurrent resolution No. 5, by State affairs committee, in relation to sections 16 and 36 situated in national forest reserves, which was filed in this office the 7th day of February, A. D. 1911, and admitted to record.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State.

Done at Boise City, the capital of Idaho, this 7th day of February, A. D. 1911, and of the Independence of the United States of America the one hundred and thirty-fifth.

WILFRED L. GIFFORD, *Secretary of State.*

Mr. BORAH. I present a joint memorial of the Legislature of the State of Idaho, which I ask may be printed in the RECORD and referred to the Committee on Public Lands.

There being no objection, the joint memorial was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

House joint memorial 5.

Memorializing the Congress of the United States to grant relief to a large number of citizens of the State of Idaho who have settled upon lands under the homestead laws of the United States in the years 1902, 1903, and 1904, prior to the proclamation and act creating the Coeur d'Alene National Forest Reserve, within which said lands are now located, in the State of Idaho.

Be it resolved by the house of representatives of the State of Idaho (the senate concurring): That the Congress of the United States be memorialized as follows:

Whereas a large number of the citizens of the State of Idaho settled upon lands under the homestead laws of the United States in the years 1902, 1903, and 1904, prior to the proclamation and act creating the Coeur d'Alene National Forest, within which said lands are now located, in the State of Idaho; and

Whereas protests and contests have been filed by the officials of said reserve against practically all of said settlers' entries, with a view of having said entries canceled and the lands covered thereby become a portion of said reserve; and

Whereas these settlers have undergone great hardships for upward of eight years in homesteading said lands, owing to the remoteness of the same from any town where supplies can be obtained, and to the fact that access thereto can be had only by "pack" trails over a rough and mountainous country, over which trails their supplies and materials for homesteading have been "packed" for all these years; and

Whereas all the homes, improvements, and effects of said settlers on said lands have been entirely destroyed by the forest fires of August, 1910, some of them losing their lives in an attempt to save their homes from destruction, and all the timber upon their claims killed by such fires, and the same will rot and become worthless on account of the worms and pests that follow in the wake of forest fires, unless the settlers are permitted to cut and dispose of such timber at an early date; and

Whereas said settlers have petitioned Congress for relief on account of such protests, contests, and fires, and asked permission to cut and sell said timber from said lands in order to save such timber from going to waste on account of such fires having burned over such timber lands; and

Whereas a great many of these settlers have offered final proof on the said lands, and their proof having been satisfactory, have received their receivers' receipts and final certificates, but their patent is not issued owing to a blanket protest having been filed against said lands and entrymen by the Forestry Department, preventing an early determination of their rights: Now, therefore, be it

Resolved by the Legislature of the State of Idaho, That the Congress of the United States is hereby requested to enact such legislation as will grant the relief prayed for by such settlers on any such lands; and be it further

Resolved, That the secretary of state of Idaho is hereby instructed to immediately forward copies of this memorial to the Senate and House of Representatives of the United States and to each of our Representatives in Congress.

This joint memorial passed the house of representatives on the 6th day of February, 1911.

CHARLES D. STOREY,
Speaker of the House of Representatives.

This joint memorial passed the senate on the 6th day of February, 1911.

L. H. SWEETSER,
President of the Senate.

I hereby certify that the within joint memorial No. 5 originated in the house of representatives of the Legislature of the State of Idaho during the eleventh session.

JAMES H. WALLIS,
Chief Clerk of the House of Representatives.

STATE OF IDAHO,
DEPARTMENT OF STATE.

I, Wilfred L. Gifford, secretary of state of the State of Idaho, do hereby certify that the annexed is a full, true, and complete transcript of house joint memorial No. 5, by Black, relating to relief to settlers who settled upon lands under the homestead laws of the United States, situated within the boundaries of the Coeur d'Alene National Forest Reserve prior to the creation thereof (passed the house of representatives Feb. 6, 1911; passed the senate Feb. 6, 1911), which was filed in this office the 9th day of February, A. D. 1911, and admitted to record. In testimony whereof, I have hereunto set my hand and affixed the great seal of the State.

Done at Boise City, the capital of Idaho, this 10th day of February, A. D. 1911, and of the Independence of the United States of America the one hundred and thirty-fifth.

[SEAL.] WILFRED L. GIFFORD, *Secretary of State.*

Mr. FLETCHER presented memorials of the Pensacola Commercial Association, of Pensacola; the First National Bank of Pensacola; the American National Bank, of Pensacola; the Citizens' National Bank, of Pensacola; the Pensacola State Bank, of Pensacola; and the People's National Bank, of Pensacola, all in the State of Florida, remonstrating against the passage of the so-called Scott antioption bill, relative to dealing in cotton futures, etc., which were ordered to lie on the table.

He also presented memorials of William C. Hooton, of Pensacola, Fla.; of the American News Co., of New York; and of the Southern Periodical Publishers' Association, of Atlanta, Ga., remonstrating against any increase being made in the rate of postage on periodicals and magazines, which were ordered to lie on the table.

He also presented a memorial of the Board of Trade of Fernandina, Fla., remonstrating against the enactment of legislation to remove discriminations against American sailing vessels in the coastwise trade, which was referred to the Committee on Commerce.

Mr. SCOTT presented a petition of Cottage Grove Council, Junior Order United American Mechanics, of Huntington, W. Va., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

He also presented a memorial of sundry citizens of Sisterville, W. Va., remonstrating against any increase in the rate of postage on periodicals and magazines, which was ordered to lie on the table.

He also presented the petition of W. C. McConaughy, president of the West Virginia Wholesale Grocers' Association, of Parkersburg, W. Va., praying for the enactment of legislation relative to a uniform weight and measure branding law applying to food products, which was referred to the Committee on Manufactures.

Mr. BURNHAM presented petitions of the F. M. Hoyt Shoe Co. and the W. H. McElwain Co., of Manchester, N. H., praying for the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented memorials of Samuel Hale, of Dover; H. M. Moffett, E. N. Whitcomb, Charles S. Clark, W. L. Whitney, Arthur E. Parent, W. W. Burlingame, Lyford & Currier, all of Berlin; of Advance Grange, No. 20, Patrons of Husbandry, of Wilton; and of the Emerson Paper Co., of Sunapee, all in the State of New Hampshire, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented petitions of the Central Labor Union and of Mount Washington Lodge, No. 276, International Association of Machinists, of Concord, N. H., praying for the construction of United States battleships in Government navy yards, which were referred to the Committee on Naval Affairs.

He also presented the memorial of J. C. Loomis, of Cornish Flat, N. H., remonstrating against any increase being made in the rate of postage on periodicals and magazines, which was ordered to lie on the table.

He also presented a memorial of the Smith-Hadley Co., of Boston, Mass., remonstrating against the passage of the so-called Scott antioption bill relative to dealing in cotton futures, etc., which was ordered to lie on the table.

He also presented the memorial of Gerard C. Henderson, of Monadnock, N. H., remonstrating against the enactment of legislation to prohibit the printing of certain matter on stamped envelopes, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Emerson Paper Co., of Sunapee, N. H., praying for the enactment of legislation to prohibit the printing of certain matter on stamped envelopes, which was referred to the Committee on Post Offices and Post Roads.

He also presented the memorial of Mrs. Abbie L. West, of Chester, N. H., remonstrating against the establishment of a

national bureau of public health, which was referred to the Committee on Public Health and National Quarantine.

He also presented a petition of the Chamber of Commerce of Philadelphia, Pa., praying for the passage of the so-called parcels-post bill, which was referred to the Committee on Post Offices and Post Roads.

Mr. BRANDEGEE presented memorials of Mattabessett Grange, No. 42, of Middletown; Local Grange No. 158, of Chester; Local Grange No. 172, of Norwich; Hollenbeck Grange, No. 125, of Canaan; Local Grange No. 79, of Housatonic; Konomoc Grange, No. 41, of Waterford; Local Grange No. 78, of Colchester; Eureka Grange, No. 62, of New Hartford; Hope Grange, No. 20, of Torrington; Local Grange No. 136, of East Canaan; Local Grange No. 107, of Litchfield; Local Grange No. 75, of Coventry; Local Grange No. 66, of Killingworth; Mad River Grange, No. 71, of Waterbury; Local Grange No. 74, of Winchester; Local Grange No. 174, of Torrington; Local Grange No. 45, of Harwinton; Cawasa Grange, No. 34, of Collinsville; Highland Grange, No. 113, of South Killingly; Local Grange No. 157, of East Lyme; Norfield Grange, No. 146, of Weston; Local Grange No. 140, of Plainfield; Wolf Den Grange, of Pomfret; and of Local Grange of Montville, all of the Patrons of Husbandry, in the State of Connecticut, remonstrating against the passage of the so-called rural parcels-post bill, which were ordered to lie on the table.

He also presented memorials of Local Grange No. 66, of Killingworth; Local Grange No. 124, of Higganum; Housatonic Grange, No. 79, of Stratford; Local Grange No. 173, of Wolcott; Local Grange No. 136, of East Canaan; Kenemock Grange, of Waterford; and of the Fairfield County Pomona Grange, all of the Patrons of Husbandry, in the State of Connecticut, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

Mr. RAYNER presented petitions of Washington Camp No. 47, of Mount Airy, and of Washington Camp No. 19, of Baltimore, both of the Patriotic Order Sons of America, in the State of Maryland, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

He also presented memorials of sundry citizens of Westminster and Hampstead, and of Highland Grange, Patrons of Husbandry, all in the State of Maryland, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

Mr. YOUNG presented a petition of the Omaha Produce Exchange, of Omaha, Nebr., praying for the enactment of legislation providing for an inspection of egg products by the Government, which was referred to the Committee on Agriculture and Forestry.

Mr. WATSON presented the memorial of S. B. Perkins and sundry citizens of Parkersburg, W. Va., remonstrating against any increase being made in the rate of postage on periodicals and magazines, which was ordered to lie on the table.

He also presented a petition of Washington Camp No. 15, Patriotic Order Sons of America, of Hedgerville, W. Va., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

Mr. TILLMAN presented the memorial of J. W. H. Dyches, pastor of the Baptist Church, and sundry other citizens of Heath Spring, S. C., remonstrating against the adoption of the proposed amendment in the post-office appropriation bill relative to the tax on periodicals and magazines, which was ordered to lie on the table.

Mr. SHIVELY presented memorials of Spring Run Grange, No. 1892, of Columbia City; of Local Grange No. 1668, of Norristown; and of Honey Creek Grange, No. 1, of Terre Haute, all of the Patrons of Husbandry, in the State of Indiana, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented a petition of the C. A. Schrader Co., of Indianapolis, Ind., and a petition of Hibben, Hollweg & Co., of Indianapolis, Ind., praying that an increase be made in the rate of postage on periodicals and magazines, which were ordered to lie on the table.

He also presented a memorial of the Indianapolis Abattoir Co., of Indianapolis, Ind., remonstrating against the passage of the so-called Scott antioption bill, relative to dealing in cotton futures, etc., which was ordered to lie on the table.

He also presented a telegram in the nature of a memorial from James M. Lynch, president of the International Typographical Union, of Indianapolis, Ind., remonstrating against any change being made in the rate of postage on periodicals

and magazines, and also against any change being made in the section of the proposed reciprocal agreement between the United States and Canada relative to paper and wood pulp, which was ordered to lie on the table.

He also presented the petition of Mrs. M. F. Johnson, president of the Richmond Art Association, of Richmond, Ind., praying for the enactment of legislation providing for the control and regulation of the waters of Niagara Falls, which was referred to the Committee on Foreign Relations.

Mr. DEPEW presented a petition of the Republican county committee of New York County, N. Y., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Chamber of Commerce of Troy, N. Y., praying for the enactment of legislation providing for 1-cent postage on all first-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented memorials of sundry citizens of Carthage, Ticonderoga, Palmer, Corinth, Niagara Falls, Cadyville, Morristonville, and Watertown, all in the State of New York, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented a memorial of the Board of Trade of Niagara Falls, N. Y., remonstrating against the enactment of legislation providing for the control and regulation of the waters of Niagara Falls, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Association of Military Surgeons of the United States, praying for the establishment of a national department of health, which was referred to the Committee on Public Health and National Quarantine.

He also presented a petition of the War Veterans and Sons Association of Brooklyn, N. Y., praying for the passage of the so-called old-age pension bill, which was ordered to lie on the table.

He also presented a petition of the New York Branch of the National German-American Alliance, praying that an appropriation be made toward the erection of a monument at Germantown, Pa., to commemorate the founding of the first German settlement in America, which was ordered to lie on the table.

He also presented a petition of the Spanish War Veterans of the State of New York, praying for the enactment of legislation authorizing campaign badges to be awarded to ex-soldiers who served in the War with Spain, which was referred to the Committee on Military Affairs.

He also presented memorials of the New York State Federation of Labor and of sundry citizens of New York City, Syracuse, Westfield, Flushing, Watertown, Buffalo, Ithaca, Coopers-town, Brooklyn, Rochester, Richmond Hill, Hudson, and Binghamton, all in the State of New York, remonstrating against any change being made in the rate of postage on periodicals and magazines, which were ordered to lie on the table.

He also presented a petition of the Republican county committee of New York County, State of New York, praying for the termination of the treaty between the United States and Russia, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Republican county committee of New York County and a petition of the North Tonawanda Board of Trade, New York, praying for the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

Mr. PILES. I present a joint memorial of the Legislature of the State of Washington, which I ask may be printed in the RECORD and referred to the Committee on Public Lands.

There being no objection, the joint memorial was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

House joint memorial 4.

To the President of the United States of America, the Senate and House of Representatives of the United States, the Secretary of the Interior, Secretary of Agriculture, and the Senators and Representatives in Congress from the State of Washington:

We your memorialists, the senate and house of representatives of the State of Washington in legislative session assembled (twelfth regular session), most respectfully represent and pray as follows, to wit:

Whereas the President in creating and setting aside public land for forest reserve in the so-called Mount Rainier and Columbia Forest Reserve in the State of Washington included therein almost four-fifths of the area of Skamania County, thereby depriving said county of the settlers which it otherwise would have, and of its legitimate income from taxes, which is crippling said county financially; and

Whereas a great deal of land in said reserve, tributary to the railway and towns in said county of Skamania, is suitable and valuable for grazing and agricultural purposes; and

Whereas the timber on said land is mature and should be cut and removed in order to give the land to the public for settlement;

Therefore we earnestly and respectfully petition the President of the United States to withdraw by proclamation and open for settlement under the public-land laws of the United States, in said Mount Rainier and

Columbia Forest Reserve, the following-described lands, to wit: Townships Nos. 3, 4, 5, and 6 north, of ranges Nos. 5, 6, 7, 8, and 9 east of the Willamette meridian, in Skamania County, Wash., and further, that the Secretary of the Interior shall cause said tract of land, when so withdrawn from said reserve by the President, to be surveyed as early as possible; and your memorialists will forever pray.

Passed the house January 26, 1911.

HOWARD D. TAYLOR,
Speaker of the House.

Passed the senate February 9, 1911.

W. H. PAULHAMUS,
President of the Senate.

Mr. PILES presented a memorial of Local Grange No. 209, Patrons of Husbandry, of Ellensburg, Wash., remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which was referred to the Committee on Finance.

Mr. HALE. I present memorials from sundry granges and citizens in the State of Maine, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada.

The VICE PRESIDENT. The memorials presented by the Senator from Maine will be noted in the RECORD and referred to the Committee on Finance.

The memorials are as follows:

Memorial of East Sangerville Grange, No. 177, Patrons of Husbandry, of East Sangerville, Me.;

Memorial of Winthrop Grange, No. 209, Patrons of Husbandry, of Winthrop, Me.;

Memorial of Good Will Grange, No. 376, Patrons of Husbandry, of Amherst, Me.;

Memorial of Limestone Grange, Patrons of Husbandry, of Limestone, Me.;

Memorial of Aroostook County Pomona Grange, Patrons of Husbandry, of Presque Isle, Me.;

Memorial of Leeds Grange, No. 99, Patrons of Husbandry, of Leeds, Me.;

Memorial of Union Harvest Grange, No. 97, Patrons of Husbandry, of Center Montville, Me.;

Memorial of Norway Grange, No. 45, Patrons of Husbandry, of Norway, Me.;

Memorial of Charleston Grange, No. 320, Patrons of Husbandry, of Charleston, Me.;

Memorial of Mystic Tie Grange, No. 58, Patrons of Husbandry, of Kenduskeag, Penobscot County, Me.;

Memorial of Valley Grange, No. 144, Patrons of Husbandry, of Guilford, Me.;

Memorial of Mount Cutler Grange, Patrons of Husbandry, of Hiram, Me.;

Memorial of Maysville Center Grange, Patrons of Husbandry, of Presque Isle, Me.;

Memorial of East Dover Grange, No. 236, Patrons of Husbandry, of East Dover, Me.;

Memorial of Houlton Grange, No. 16, Patrons of Husbandry, of Houlton, Me.;

Memorial of Nobleboro Grange, Patrons of Husbandry, of Nobleboro, Me.;

Memorial of Seabasticook Grange, No. 90, Patrons of Husbandry, of Burnham, Me.;

Memorial of Somerset Pomona Grange, Patrons of Husbandry, of Anson, Me.;

Memorial of Caribou Grange, No. 138, Patrons of Husbandry, of Caribou, Me.;

Memorial of John F. Hill Grange, No. 393, Patrons of Husbandry, of Elliot, Me.;

Memorial of Floral Grange, No. 232, Patrons of Husbandry, of Penobscot County, Me.;

Memorial of Milbridge Grange, No. 291, Patrons of Husbandry, of Milbridge, Me.;

Memorial of Mountain Grange, No. 331, Patrons of Husbandry, of Blaine, Aroostook County, Me.;

Memorial of Otisfield Grange, Patrons of Husbandry, of Otisfield, Me.;

Memorial of Eureka Grange, Patrons of Husbandry, of Mapleton, Me.;

Memorial of Jefferson Grange, No. 197, Patrons of Husbandry, of Jefferson, Me.;

Memorial of Sagadahoc Grange, Patrons of Husbandry, of Bowdoin, Me.;

Memorial of Boothbay Grange, Patrons of Husbandry, of Boothbay, Me.;

Memorial of North Franklin Pomona Grange, No. 22, Patrons of Husbandry, of North Franklin, Me.;

Memorial of Victor Grange, No. 246, Patrons of Husbandry, of Searsport, Me.;

Memorial of Monmouth Grange, Patrons of Husbandry, of Monmouth, Me.;

Memorial of Valley Grange, No. 144, Patrons of Husbandry of Maine;

Memorial of Aroostook County Pomona Grange, Patrons of Husbandry of Maine;

Memorial of Norway Grange, Patrons of Husbandry, of Norway, Me.;

Memorial of Southern Aroostook Pomona Grange, Patrons of Husbandry, of Monticello, Me.;

Memorial of sundry citizens of Aroostook County, Me.;

Memorial of L. W. Haskins, of Waterville, Me.;

Memorial of A. C. Stanley, of Monticello, Me.; and

Memorials of sundry citizens of the State of Maine.

FARM PRODUCTS.

Memorial of Alex McPhirson, of Presque Isle, Me. (potatoes);
Memorial of the New England Homestead, of Springfield, Mass. (potatoes);

Memorial of W. A. Quigley, of North Bancroft, Me.;

Memorial of E. A. Carpenter, of Brooks, Me.; and

Memorial of O. W. Mapes, of Middletown, N. Y.

FISH.

Memorial of Guy H. Parker, of Tremont, Me.;

Memorial of Geo. H. Lyon & Son, of Eastport, Me.;

Memorial of W. B. Mowry, of Lubec, Me.; and

Memorial of Emery P. Parker, of Corea, Me.

LUMBER.

Memorial of the Augusta Lumber Co., of Augusta, Me.; and
Memorial of the Society for the Protection of New Hampshire Forests, of Boston, Mass.

PULP AND PAPER.

Memorial of a committee representing 1,200 men engaged in the paper and pulp industry, of Livermore Falls, Me.;

Memorial of a committee representing 300 men engaged in the paper and pulp industry in the towns of Enfield and Hartland, Me.;

Memorial of the International Brotherhood of Stationary Firemen, of Lisbon Falls, Me.;

Memorial of the International Central Brotherhood of Paper Makers, of Androscoggin, Me.;

Memorial of the International Paper Co., of Solon, Me.;

Memorial of the International Paper Co., of Enfield, Me.;

Memorial of George E. Keith, Esq., of Campello, Mass.;

Memorial of the American Paper & Pulp Association, of New York City, N. Y.;

Memorial of the Shawmut Manufacturing Co., of Shawmut, Me.;

Memorial of Hugh J. Chisholm, of Palm Beach, Fla.; and

Memorial of the International Brotherhood of Pulp, Sulphite & Paper Mill Workers' Union, Local No. 22, of Solon, Me.;

MISCELLANEOUS.

Memorial of G. H. Bass & Co., of Wilton, Me. (shoes);

Memorial of the American National Live Stock Association, of Denver, Colo. (live stock and its products);

Memorial of the Peoria Board of Trade, of Peoria, Ill. (grain);

Memorial of the De Laval Separator Co., of New York City, N. Y. (cream separators); and

Memorial of the congress of the Knights of Labor, of Albany, N. Y. (general opposition).

Mr. JONES. I present a joint memorial of the Legislature of the State of Washington, which I ask may be printed in the RECORD and referred to the Committee on Public Lands.

There being no objection, the joint memorial was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

House joint memorial 4.

To the President of the United States of America, the Senate and House of Representatives of the United States, the Secretary of the Interior, Secretary of Agriculture, and the Senators and Representatives in Congress from the State of Washington:

We, your memorialists, the senate and house of representatives of the State of Washington in legislative session assembled (twelfth regular session), most respectfully represent and pray as follows, to wit:

Whereas the President in creating and setting aside public land for forest reserve in the so-called Mount Rainier and Columbia Forest Reserve, in the State of Washington, included therein almost four-fifths of the area of Skamania County, thereby depriving said county of the settlers which it otherwise would have; of its legitimate income from taxes, which is crippling said county financially; and

Whereas a great deal of land in said reserve, tributary to the railway and towns in said county of Skamania, is suitable and valuable for grazing and agricultural purposes; and

Whereas the timber on said land is mature and should be cut and removed in order to give the land to the public for settlement: Therefore

We earnestly and respectfully petition the President of the United States to withdraw by proclamation and open for settlement under the

public-land laws of the United States in said Mount Rainier and Columbia Forest Reserve the following-described lands, to wit: Townships Nos. 3, 4, 5, and 6 N. of ranges Nos. 5, 6, 7, 8, and 9 E. of the Willamette meridian, in Skamania County, Wash., and, further, that the Secretary of the Interior shall cause said tract of land when so withdrawn from said reserve by the President to be surveyed as early as possible, and your memorialists will forever pray.

Passed the house January 26, 1911.

HOWARD D. TAYLOR,
Speaker of the House.

Passed the senate February 9, 1911.

W. H. PAULHAMUS,
President of the Senate.

Mr. JONES. I present a joint memorial of the Legislature of the State of Washington, which I ask may be printed in the RECORD and referred to the Committee on Public Lands.

There being no objection, the joint memorial was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

Senate joint memorial 5.

Whereas the Rainier National Park, in the State of Washington, containing within its boundaries the noblest of American mountains, with the most important glaciers and some of the most noteworthy examples of glacial action to be found in the United States south of Alaska, is, by reason of Government ownership, wholly dependent upon congressional appropriation for the protection of its great forest areas and to make it accessible to students, tourists, and the general public; and

Whereas Congress has hitherto appropriated sums aggregating \$225,000 for the survey and construction of a highway from the western boundary to Paradise Valley in said national park, a distance of 24 miles, which highway has opened to vehicles a great scenic region that is already visited by many thousands of persons annually; and

Whereas the greater portion of said national park, including the largest glaciers and the most valuable forest, is still inaccessible to tourists and incapable of protection from fires for want of proper roads and trails; and

Whereas a bill is now before Congress appropriating \$50,000 for surveys and the beginning of construction of a road continuing the aforesaid highway entirely around Mount Rainier, within the boundaries of said national park; which appropriation would enable the Engineer Corps not only to locate the route of such road, but to begin construction thereof by building bridge trails on the final grades so established, thereby opening at once all parts of said national park to travel on horseback and greatly increasing the safety and utility of the park until such time as said trails may be widened into the proposed permanent road; Therefore

Resolved by the senate and house of representatives of the State of Washington, That, in view of the desirability of protecting said national park and making it fully accessible at the earliest practicable date, the Congress of the United States is respectfully requested to pass said appropriation at its present session.

Passed the senate February 7, 1911.

W. H. PAULHAMUS,
President of Senate.

Passed the house February 10, 1911.

HOWARD D. TAYLOR,
Speaker of House.

UNITED WIRELESS CO.

Mr. JONES. I present a letter from E. J. Adams, of Seattle, Wash., stating that, through Mr. Parker, of that city, several million dollars worth of stock of the United Wireless Co. has been sold there to various parties at prices ranging from \$10 to \$40 per share and asking for an investigation by Congress. I ask that the letter be referred to the committee having charge of the resolution of inquiry.

The VICE PRESIDENT. The letter will be referred to the Committee on Interstate Commerce.

COURTS IN MISSISSIPPI.

Mr. CLARKE of Arkansas. I am authorized by the Committee on the Judiciary to report back favorably without amendment the bill (H. R. 23695) to provide for sittings of the United States circuit and district courts of the northern district of Mississippi at the city of Clarksdale, in said district. I call the attention of the Senator from Mississippi [Mr. PERCY] to the bill.

Mr. PERCY. I ask for the present consideration of the bill just reported by the Senator from Arkansas.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BRIDGE ACROSS MISSOURI RIVER.

Mr. MARTIN. From the Committee on Commerce, I report back favorably without amendment the bill (S. 10822) to extend the time for the completion of the bridge across the Missouri River at or near Yankton, S. Dak., by the Winnipeg, Yankton & Gulf Railroad Co., and I submit a report (No. 1195) thereon.

Mr. GAMBLE. I ask unanimous consent for the present consideration of the bill.

The bill was read.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. BORAH. I will not object to this bill, but I would not want the request to be repeated very often, because I want to get to work on the unfinished business.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. MARTIN, from the Committee on Commerce, to which was referred the bill (S. 10823) to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak., by the Yankton, Norfolk & Southern Railway Co., reported it without amendment and submitted a report (No. 1198) thereon.

Mr. BRIGGS, from the Committee on Military Affairs, to which was referred the bill (H. R. 22747) for the relief of Edward Swainor, reported it without amendment and submitted a report (No. 1199) thereon.

Mr. SMOOT, from the Committee on Printing, to which was referred the bill (S. 10646) to amend, revise, and codify the laws relating to the public printing and binding and the distribution of Government publications, reported it with amendments and submitted a report (No. 1200) thereon.

Mr. BULKELEY, from the Committee on Military Affairs, to which was referred the bill (S. 1530) to reorganize the corps of dental surgeons attached to the Medical Department of the Army, reported it without amendment and submitted a report (No. 1201) thereon.

Mr. BURTON. I am directed by the Committee on Commerce, to which was referred the bill (S. 10558) to provide for the improvement of navigation in the St. Lawrence River and for the construction of dams, locks, canals, and other appurtenant structures therein at and near Long Sault, Barnhart, and Sheek Islands, to report it with amendments, and I submit a report (No. 1203) thereon. I ask that the illustrations accompanying the report be printed as a part thereof.

The VICE PRESIDENT. Without objection, it is so ordered.

PUMPING STATION AT MILES CITY, MONT.

Mr. DIXON. From the Committee on Military Affairs I report back favorably with an amendment in the nature of a substitute the bill (S. 9698) granting certain lands to the city of Miles City, Mont., now embraced within the limits of the Fort Keogh Military Reservation, Mont., and I submit a report (No. 1197) thereon. It is a very short bill and merely allows the establishment of a pumping station for water-power purposes. They are ready to go to work. I ask unanimous consent for its present consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment was to strike out all after the enacting clause and insert:

That the consent of the United States is hereby given to the city of Miles City, Mont., to locate, construct, maintain, and operate a pumping station, with accessory equipment, upon the property of the United States at Fort Keogh, in the State of Montana, upon the approval of the Secretary of War as to the location of the works and the design and character of the construction, and under such terms, conditions, and regulations as may from time to time be prescribed by him regarding the use of the reservation for this purpose and the operation and maintenance of the plant.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting permission to the city of Miles City, Mont., to operate a pumping station on the Fort Keogh Military Reservation, Mont."

FRANCIS E. ROSIER.

Mr. BULKELEY. From the Committee on Military Affairs, I report favorably, without amendment, the bill (H. R. 21613) for the relief of Francis E. Rosier, and I submit a report (No. 1196) thereon. I ask unanimous consent for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes that in the administration of the pension laws Francis E. Rosier, designated in the military records as Francis E. Rodier, who was captain of Company A, Twelfth United States Colored Heavy Artillery, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a

member of that company and regiment on the 22d of June, 1865; but no pension shall accrue or become payable prior to the passage of this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JUDGES OF COMMERCE COURT.

Mr. BACON. I am directed by the Committee on the Judiciary, to which was referred the bill (S. 8823) to amend the act entitled "An act to create a commerce court, and to amend the act entitled 'An act to regulate commerce,' approved February 4, 1887, as heretofore amended, and for other purposes," approved June 18, 1910, to report it with an amendment, with the recommendation that as amended the bill be passed, and I submit a report (No. 1202) thereon. I should like very much, in view of the importance of the bill, if it could receive the early action of the Senate.

The VICE PRESIDENT. The Senator from Georgia asks unanimous consent for the present consideration of the bill. Is there objection?

Mr. BORAH. Mr. President, if the bill will not lead to debate I will not object, but if it does I shall interpose an objection.

Mr. CULBERSON. Mr. President, I do not suggest that it will lead to debate.

Mr. BACON. I withdraw the request.

Mr. CULBERSON. But I want the bill read, so that I may understand it.

The VICE PRESIDENT. The Senator from Georgia withdraws the request for present consideration.

Mr. BACON. If the bill is going to lead to any debate, I will withdraw the request.

Mr. CULBERSON. I ask that the bill be read.

The VICE PRESIDENT. In the absence of objection, the Secretary will read the bill.

The Secretary read the bill.

Mr. HEYBURN. Mr. President, I shall object to the consideration of the bill.

The VICE PRESIDENT. No request has been made for present consideration. The request was withdrawn.

Mr. HEYBURN. If I may be permitted—

Mr. BACON. I stated that I would withdraw the request if the bill should lead to debate.

Mr. HEYBURN. It may be that what I have to say may be in order when I have said it.

The VICE PRESIDENT. The Chair did not mean to intimate that the Senator from Idaho was not in order, but thought he misunderstood the situation.

Mr. HEYBURN. I shall not say anything subject to a point of order. I exercise the ordinary right of a Senator to make a suggestion.

So far as I am concerned, when I am present I do not intend passively to see anything changing the law creating the Commerce Court enacted into law until one volume of their reports has been printed. I opposed the creation of the court, and I want to be satisfied that it is a real court before anything more is done about it.

The VICE PRESIDENT. The bill will be placed on the calendar.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. FRAZIER:

A bill (S. 10860) to establish a fish-cultural station in the county of Lincoln, in the State of Tennessee; to the Committee on Fisheries.

By Mr. DICK:

A bill (S. 10861) for the relief of Daniel Robinson, major, United States Army, retired; to the Committee on Claims.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. KEAN submitted an amendment proposing to increase the appropriation for a public building at Bayonne, N. J., to \$75,000, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. FOSTER submitted an amendment authorizing the Secretary of Commerce and Labor to enlarge, equip, and put into effective operation the immigration station at New Orleans, La., etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Immigration and ordered to be printed.

Mr. OVERMAN (for Mr. STONE) submitted an amendment proposing to increase the appropriation for drainage investigations from \$100,000 to \$200,000, intended to be proposed by him

to the agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. GORE submitted an amendment proposing to appropriate \$15,000 for the construction and equipment of a suitable building for an experiment station and a weather station at Lawton, Okla., intended to be proposed by him to the agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

COMPANIES B, C, AND D, TWENTY-FIFTH UNITED STATES INFANTRY.

Mr. BULKELEY. I submit the resolution which I send to the desk, and ask unanimous consent for its present consideration.

The VICE PRESIDENT. The resolution (S. Res. 358) will be read.

The Secretary read as follows:

Resolved, That the Secretary of War be requested to transmit to the Senate a list of names of soldiers of Companies B, C, and D, of the Twenty-fifth Infantry, recommended as eligible for reenlistment by the "court of inquiry relative to the affray at Brownsville, Tex.," who have applied for reenlistment, or have reenlisted under the provisions of the act of Congress, approved March 3, 1909, and special order of the War Department No. 79, April 7, 1909, convening court of inquiry.

The VICE PRESIDENT. Is there objection to the request of the Senator from Connecticut for the present consideration of the resolution?

Mr. CULBERSON. I object.

The VICE PRESIDENT. Objection is made.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had approved and signed the following acts:

On February 17, 1911:

S. 10348. An act to convey to the city of Fort Smith, Ark., a portion of the national cemetery reservation in said city;

S. 10326. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 10327. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

S. 10453. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors; and

S. 10454. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

On February 18, 1911:

S. 9405. An act to amend section 5 of the act of Congress of June 25, 1910, entitled "An act to authorize advances to the 'reclamation fund,' and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes";

S. 9566. An act to reserve certain lands and to incorporate the same and make them a part of the Pocatello National Forest; and

S. 10583. An act to amend the charter of the Firemen's Insurance Co. of Washington and Georgetown, in the District of Columbia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had passed the following bills:

S. 10574. An act to amend an act entitled "An act providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, and for other purposes," approved April 16, 1906; and

S. 10836. An act to authorize the Minnesota River Improvement & Power Co. to construct dams across the Minnesota River.

The message also announced that the House had agreed to the amendment of the Senate to the joint resolution (H. J. Res. 146) creating a commission to investigate and report on the advisability of the establishment of permanent maneuvering grounds and camps of inspection for troops of the United States at or near the Chickamauga and Chattanooga National Military Park.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to

the bill (H. R. 28406) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1912; further insists on its disagreement to the amendments of the Senate Nos. 48, 76, and 82 to the bill; agrees to the further conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. BURKE of South Dakota, Mr. CAMPBELL, and Mr. STEPHENS of Texas managers at the conference on the part of the House.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 31856) making appropriation to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1912, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. GARDNER of Michigan, Mr. TAYLOR of Ohio, and Mr. BURLESON managers at the conference on the part of the House.

The message further communicated to the Senate the intelligence of the death of Hon. AMOS L. ALLEN, late a Representative from the State of Maine, and transmitted the resolutions of the House thereon.

The message also announced that the Speaker of the House had appointed Mr. SWASEY and Mr. GUERNSEY, of Maine; Mr. DAVIS, of Minnesota; Mr. O'CONNELL, of Massachusetts; Mr. KENDALL, of Iowa; Mr. LATTI, of Nebraska; Mr. GRAHAM, of Illinois; and Mr. CAMERON, of Arizona, members of the committee on the part of the House of Representatives to attend the funeral.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 31856) making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1912, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. GALLINGER. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the Vice President appointed Mr. GALLINGER, Mr. CURTIS, and Mr. TILLMAN conferees on the part of the Senate.

SENATOR FROM ILLINOIS.

Mr. GALLINGER. Mr. President, I desire to give notice that on to-morrow, at the conclusion of the speech of the Senator from Indiana [Mr. BEVERIDGE], I will occupy a few minutes of the time of the Senate in discussing the so-called Lorimer case.

JAMES M. SWEAT.

Mr. SMITH of South Carolina. Mr. President, there is a bill on the calendar which will take but a minute, and as I am very busy on the Committee on Agriculture and it is a very pressing matter, I should like to have it taken up out of order and by unanimous consent. It is Senate bill 7640. It is merely to correct the military record of a poor Mexican soldier. A similar bill has been heretofore passed and this bill recommended for passage by the Committee on Military Affairs of the Senate. If I can be relieved by the passage of the bill I shall be obliged.

The VICE PRESIDENT. The Senator from South Carolina asks unanimous consent for the present consideration of a bill, the title of which will be stated.

The SECRETARY. A bill (S. 7640) to correct the military record of James M. Sweat.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Military Affairs, with an amendment to strike out all after the enacting clause, and insert:

That in the administration of the pension laws James M. Sweat, late of the Third United States Dragoons, Capt. John S. Sitgreaves's company, War with Mexico, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a member of said organization on the 31st day of July, 1848: *Provided*, That no pay, bounty, or other emolument shall accrue or be payable by virtue of this act, and that the pensionable status herein granted shall date from the approval of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of James M. Sweat."

PENSIONS AND INCREASE OF PENSIONS.

Mr. McCUMBER. Mr. President, there are two private pension bills on the calendar, which ought to be passed by the Senate to-day, in order that they may go over to the other House and be taken up on the only day that they will have there for the consideration of pension bills. That being the case, I ask unanimous consent for the present consideration of Senate bill 10817 and Senate bill 10818.

The VICE PRESIDENT. Is there objection to the request of the Senator from North Dakota? The Chair hears none.

The bill (S. 10817) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors, was considered as in Committee of the Whole. It proposes to pension the following-named persons at the rates stated:

Charles B. Flynn, late of Company K, First Regiment Nebraska Volunteer Infantry, War with Spain, \$10.

George N. Holden, late of Company D, First Regiment West Virginia Volunteer Infantry, War with Spain, \$12.

Humphrey L. Carter, late of Capt. P. C. Noland's Company B, Second Regiment Oregon Mounted Volunteers, Oregon and Washington Territory Indian war, \$16.

John Kenney, late of Company I, Ninth Regiment United States Infantry, Oregon and Washington Territory Indian war, \$16.

Duncan A. Gray, late of Thirteenth Company, United States Volunteer Signal Corps, War with Spain, \$15.

William P. Armstrong, late of Battery H, Third Regiment United States Artillery, War with Spain.

Christopher J. Rollis, late captain Company G, Thirty-fourth Regiment United States Volunteer Infantry, War with Spain, \$30.

The name of Samuel S. Householder, late of Company K, Third Regiment Missouri Volunteer Infantry, and Company F, Twentieth Regiment United States Infantry, War with Spain, \$15.

Jesse P. Steele, late of Capt. McRay's company, Nauvoo Legion, Utah Volunteers, Utah Indian War, \$16.

Lillian A. Wilmot, widow of Willie C. Wilmot, late of Company C, First Regiment New Hampshire Volunteer Infantry, War with Spain, \$12 per month and \$2 per month additional on account of each of the minor children of the said Willie C. Wilmot until they reach the age of 16 years.

George E. Seneff, late of Company K, Eighteenth Regiment United States Infantry, \$24.

William L. Parks, late of Capt. Benjamin Cherry's company, Tennessee Volunteers, Florida Indian War, \$16.

John A. West, late of Capt. C. Hancock's cavalry company, Nauvoo Legion, Utah Volunteers, Utah Indian War, \$16.

Jen Rody Chauncey, late of Company H, Seventeenth Regiment United States Infantry, \$16.

Gilford Ratliff, late of John S. Ford's company, Texas Volunteers, Texas and New Mexico Indian wars, \$16.

Polk R. Kyle, late of James H. Callahan's company, Texas Volunteer Rangers, Indian wars, \$16.

John D. Smith, late of the United States Navy, \$30.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The bill (S. 10818) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors was considered as in Committee of the Whole. It proposes to pension the following-named persons at the rates stated:

James R. Vassar, late of Company G, Fifteenth Regiment Missouri Volunteer Cavalry, \$24.

Charles L. Randall, late medical cadet, United States Army, and assistant surgeon, United States Volunteers, \$24.

Amos Stewart, late of Company F, Fourth Regiment Iowa Volunteer Cavalry, \$24.

Armstead Fletcher, late of Company E, First Regiment Missouri State Militia Cavalry, \$24.

George W. Spray, late of Company C, Thirty-eighth Regiment Illinois Volunteer Infantry, \$24.

David C. Nigh, late of Company C, One hundred and thirty-fifth Regiment Indiana Volunteer Infantry, \$24.

Josephus Clark, late of Company G, One hundred and twentieth Regiment Indiana Volunteer Infantry, \$24.

Charles Maxwell Waterman, late of Company B, Thirty-fifth Regiment Iowa Volunteer Infantry, \$30.

Eli F. Holland, late of Company C, Ninth Regiment Iowa Volunteer Infantry, \$40.

David E. Fisher, late of Company E, One hundred and thirty-sixth Regiment Ohio National Guard Infantry, \$24.

George F. Woods, late of Company G, Fifty-sixth Regiment New York Volunteer Infantry, \$24.

Olive C. Dodge, widow of Joseph O. Dodge, late of Company G, Twelfth Regiment Maine Volunteer Infantry, \$20.

William Carpenter, late of Company G, Ninth Regiment West Virginia Volunteer Infantry, \$30.

Elvira E. Chase, widow of Thomas Chase, late of Company K, Thirtieth Regiment Maine Volunteer Infantry, \$12.

Joseph D. Power, late of Company F, One hundred and thirty-seventh Regiment Indiana Volunteer Infantry, \$24.

Lydia J. Taylor, widow of Martin Taylor, late of Company E, Thirty-third Regiment Ohio Volunteer Infantry, \$20.

George H. Wallace, late of Company E, Eighty-eighth Regiment Ohio Volunteer Infantry, \$24.

Richard W. Capen, late of Company I, Fourteenth Regiment, and Company H, Forty-eighth Regiment, Wisconsin Volunteer Infantry, \$30.

John D. Trevallee, late of Company A, Second Regiment Wisconsin Volunteer Cavalry, \$24.

Margaret H. Flint, widow of Wilbur F. Flint, late of Twenty-sixth Independent Battery, New York Volunteer Light Artillery, and second lieutenant Company B, Tenth Regiment United States Colored Volunteer Heavy Artillery, \$12.

Francis M. Webb, late of Company A, Second Regiment Indiana Volunteer Cavalry, \$24.

George F. Cooper, late of Company D, Twenty-first Regiment Michigan Volunteer Infantry, \$24.

Anton Zwing, late of Company G, Ninth Regiment United States Infantry, \$24.

James W. Ward, late of Company I, Thirteenth Regiment West Virginia Volunteer Infantry, \$24.

Frank W. Sencebaugh, late of Company L, Fifth Regiment Iowa Volunteer Cavalry, \$24.

William N. Johnson, late of Company K, Eleventh Regiment Illinois Volunteer Cavalry, \$30.

Thomas H. Morris, late of Company F, Ninth Regiment Ohio Volunteer Cavalry, \$24.

William C. Knox, late of Signal Corps, United States Army, \$30.

Elijah C. Davey, late of Twelfth Battery Wisconsin Volunteer Light Artillery, \$24.

Robert H. Johnson, late of Company I, Eleventh Regiment Minnesota Volunteer Infantry, \$24.

James W. Broom, late of Company F, One hundred and ninety-sixth Regiment Ohio Volunteer Infantry, \$24.

Annie G. Long, widow of James W. Long, late captain, Second Regiment United States Infantry, \$30.

George W. Rauch, late of Company I, Forty-ninth Regiment Pennsylvania Volunteer Infantry, \$24.

Alfred Anderson, late of Company M, Sixteenth Regiment Kansas Volunteer Cavalry, \$24.

John H. Iott, late of Company C, Battalion United States Engineers, \$24.

Francis M. Ross, late of Company B, Forty-second Regiment Indiana Volunteer Infantry, \$24.

General L. Boso, late of Company D, Thirteenth Regiment West Virginia Volunteer Infantry, \$24.

Harvey W. Hewitt, late of Company D, Seventy-fifth Regiment Illinois Volunteer Infantry, \$24.

Francis M. Truax, late of Company E, Thirteenth Regiment Missouri Volunteer Infantry; Company E, Twenty-second Regiment Ohio Volunteer Infantry; and Companies D and E, First Regiment Mississippi Marine Brigade Volunteer Infantry, \$24.

Patrick H. Conarty, late of Company G, Third Regiment Missouri Volunteer Cavalry, \$24.

Patrick J. Conway, late captain Company G, Ninety-eighth Regiment United States Colored Volunteer Infantry, \$20.

John Richardson, late of Company E, One hundred and twenty-ninth Regiment Indiana Volunteer Infantry, \$24.

Joseph M. Alexander, late of Company M, Second Regiment Pennsylvania Volunteer Heavy Artillery, \$30.

John E. Moon, late first lieutenant Company B, One hundred and fifty-first Regiment Indiana Volunteer Infantry, \$24.

David Riel, late of Company G, Fifteenth Regiment West Virginia Volunteer Infantry, \$24.

William H. Meece, late of Company D, Third Regiment Kentucky Volunteer Infantry, \$30.

Chesley Payne, late of Company I, Third Regiment Kentucky Volunteer Infantry, \$24.

Elizabeth Lucas, widow of Benjamin M. Lucas, late of Company F, Twenty-seventh Regiment Kentucky Volunteer Infantry, \$20.

Robert Bell, late of Company D, Thirtieth Regiment Kentucky Volunteer Infantry, \$24.

Joseph Hiler, late of Company G, Third Regiment Missouri State Militia Volunteer Cavalry, \$30.

Andrew Pea, late of Company E, Fifty-fifth Regiment Indiana Volunteer Infantry, \$12.

Oliver Yake, late of Company K, Twenty-second Regiment Michigan Volunteer Infantry, \$30.

Charles Nobles, late of Company F, One hundredth Regiment Indiana Volunteer Infantry, \$30.

Stephen E. Taylor, late of Company H, Second Regiment Michigan Volunteer Cavalry, \$30.

Benjamin F. Johnston, late of Company A, Fifth Regiment Michigan Volunteer Cavalry, \$30.

Freeborn H. Price, late of Company A, Ninth Regiment Michigan Volunteer Infantry, \$24.

Charles H. Lamphier, late of Company F, Twenty-sixth Regiment Michigan Volunteer Infantry, \$24.

Patrick O'Brien, late of Company E, Tenth Regiment Wisconsin Volunteer Infantry, \$24.

Malinda Wilson, widow of George Wilson, late of Capt. Ferris's company, First Regiment Northeast Missouri Volunteer Infantry, \$12.

Fannie Ladd, widow of James A. Ladd, late captain Company C, Thirty-ninth Regiment Missouri Volunteer Infantry, \$20.

Edward Tippens, late of Company C, Seventy-seventh Regiment Ohio Volunteer Infantry, \$24.

Kinsman Boso, late of Company A, Ninth Regiment West Virginia Volunteer Infantry, \$30.

William Burris, late of Company I, Fifteenth Regiment, and Company I, Tenth Regiment, West Virginia Volunteer Infantry, \$30.

Charles C. Edwards, late of Company D, Fourteenth Regiment Connecticut Volunteer Infantry, and general service, United States Army, \$24.

Ellen M. Corsa, widow of William H. Corsa, late of Company G, Seventh Regiment Connecticut Volunteer Infantry, \$20.

Alexander McDonald, late of Company E, Sixth Regiment West Virginia Volunteer Infantry, \$24.

Isaac N. Dysard, late of Company F, Fifty-fourth Regiment Kentucky Volunteer Mounted Infantry, \$30.

William H. Hills, late hospital steward, United States Army, \$30.

Ira A. Kneeland, late of Company H, Tenth and Twenty-ninth Regiments Maine Volunteer Infantry, \$30.

Fernando S. Philbrick, late of Company G, Twenty-first Regiment Maine Volunteer Infantry, \$24.

Chandler Swift, late of Company F, Twenty-third Regiment Maine Volunteer Infantry, \$24.

Pleasant H. Latimer, late of Company D, Ninth Regiment Minnesota Volunteer Infantry, \$30.

John Bigley, late of Troop E, Third Regiment United States Cavalry, \$24.

William H. Gosset, late of Company B, Thirty-fifth Regiment Wisconsin Volunteer Infantry, \$30.

Thomas Murray, late of Company H, Eighty-fourth Regiment Illinois Volunteer Infantry, \$30.

William Swinburn, late of Company A, Fifth Regiment Ohio Volunteer Infantry, \$24.

Morris Thomas, late of Company C, First Battalion, and commissary sergeant Sixteenth Regiment, United States Infantry, \$24.

Gullien Tullion, late of Third Independent Battery Minnesota Volunteer Light Artillery, \$30.

Samuel A. Sanders, late of Company I, Fourteenth Regiment Illinois Volunteer Cavalry, \$24.

Winfield S. Janes, late of Company E, Sixth Regiment Iowa Volunteer Cavalry, \$24.

William H. Fields, late of Company F, First Regiment Michigan Volunteer Infantry, \$24.

Solomon Peck, late of Company B, Thirteenth Regiment Michigan Volunteer Infantry, \$24.

Frank J. Clark, late of Company D, Fourteenth Regiment New Hampshire Volunteer Infantry, \$30.

Benjamin Bortz, late of Company G, Forty-seventh Regiment Pennsylvania Volunteer Infantry, \$30.

Cyrus Wilson, late of Company G, Fifty-eighth Regiment Pennsylvania Volunteer Infantry, \$24.

Perkins H. Bagley, jr., late of Company E, First Regiment Massachusetts Volunteer Infantry, \$30.

Alfred L. Tucker, late of Company H, Eighteenth Regiment, and first lieutenant Company C, Thirty-second Regiment, Wisconsin Volunteer Infantry, \$30.

Francis J. Trowe, late of Company C, Second Regiment Minnesota Volunteer Cavalry, \$30.

Melissa J. Kauffman, widow of Solomon Kauffman, late captain Company L, Third Regiment Indian Home Guards, Kansas Volunteers, \$20.

Lewis H. Sherry, late of Company E, Thirty-first Regiment Ohio Volunteer Infantry, \$30.

Andrew Marsh, late of Company H, One hundred and fifty-third Regiment Illinois Volunteer Infantry, \$24.

William W. Fraser, late of Company I, Ninety-seventh Regiment Illinois Volunteer Infantry, \$30.

Joseph C. Monk, late of Company D, Eighty-ninth Regiment Illinois Volunteer Infantry, \$30.

Eli N. Swerdfeger, late of Company I, Thirteenth Regiment Kansas Volunteer Infantry, \$30.

David H. Frink, late of Nineteenth Independent Battery New York Volunteer Light Artillery, \$30.

Eli Adams, late of Company A, Sixteenth Regiment Indiana Volunteer Infantry, \$24.

Benjamin F. Fulton, late of Company B, Eighth Regiment Iowa Volunteer Cavalry, \$24.

Frederick Shulley, late of Company G, Two hundred and ninth Regiment Pennsylvania Volunteer Infantry, \$24.

David Stanard, late of Company A, One hundred and eighty-sixth Regiment New York Volunteer Infantry, \$30.

Daniel Younker, late of Company C, Two hundred and third Regiment Pennsylvania Volunteer Infantry, \$24.

Benjamin Bennett, late of Companies K and F, Twelfth Regiment Illinois Volunteer Cavalry, \$50.

Margaret J. Brownell, widow of David Brownell, late of Company G, Seventy-second Regiment Ohio Volunteer Infantry, \$12.

T. Price Line, late quartermaster sergeant, One hundred and ninety-first Regiment Ohio Volunteer Infantry, \$24.

Rose E. White, widow of Jacob O. White, late of Company K, One hundred and ninety-third Regiment New York Volunteer Infantry, \$12.

John Hines, late of Company D, Twenty-second Regiment Wisconsin Volunteer Infantry, \$24.

Austin Betters, late of Company K, Tenth Regiment Vermont Volunteer Infantry, and Battery E, First Regiment United States Artillery, \$24.

Thomas Posey, late of Company G, Seventh Regiment Indiana Volunteer Infantry, \$20.

Henry McBrien, late of Company D, Eighty-ninth Regiment New York Volunteer Infantry, \$30.

Arthur W. Cox, late hospital steward, Nineteenth Regiment Massachusetts Volunteer Infantry, \$30.

William H. H. Ranger, late of Company B, Sixteenth Regiment Michigan Volunteer Infantry, \$30.

James M. Chambers, late of Company A, Sixty-first Regiment Pennsylvania Volunteer Infantry, \$24.

Mary C. Galbraith, widow of William J. Galbraith, late first lieutenant, Signal Corps, United States Army, \$12.

Wright T. Ellison, late of Company F, Thirteenth Regiment New Hampshire Volunteer Infantry, \$24.

Benjamin T. Stevens, late of Company D, Second Regiment New Hampshire Volunteer Infantry, \$24.

Richard Dent, late of Company A, Fiftieth Regiment Wisconsin Volunteer Infantry, \$30.

John Rose, late of Company G, First Regiment Wisconsin Volunteer Infantry, \$30.

Mark Smith, late of Company H, Seventh Regiment Wisconsin Volunteer Infantry, \$55.

William B. Knapp, late of Company C, One hundred and fourth Regiment New York Volunteer Infantry, and Company K, Second Regiment New York Volunteer Cavalry, \$24.

Mary P. Meade, widow of Robert L. Meade, late brigadier general, United States Marine Corps, \$40.

William W. Edwards, late of Company F, Twenty-seventh Regiment Indiana Volunteer Infantry, \$30.

Essie Pursel, helpless and dependent daughter of Thomas C. Pursel, late captain Company B, Eleventh Regiment Indiana Volunteer Infantry, \$12.

Andrew Schoonmaker, late of Company H, Forty-sixth Regiment Illinois Volunteer Infantry, \$24.

Jacob Mathews, late musician, band, Seventeenth Regiment United States Infantry, \$24.

George W. Fouts, late of Company A, Eightieth Regiment Ohio Volunteer Infantry, \$30.

George W. McAllister, late of Company B, Fourth Regiment Vermont Volunteer Infantry, \$24.

Charles H. McCarroll, late of Company L, First Regiment Vermont Volunteer Cavalry, \$30.

Edward J. Miller, late of Eighteenth and Twenty-fifth Independent Batteries New York Volunteer Light Artillery, \$24.

John M. Staples, late of Company I, Fifth Regiment Tennessee Volunteer Infantry, \$24.

Harry G. Bingner, late of Company E, One hundred and thirty-third Regiment Pennsylvania Volunteer Infantry, \$24.

Theodore Clark, late of Company I, Fourth Regiment New Hampshire Volunteer Infantry, \$30.

Michael Wiar, late of Companies G and B, Forty-seventh Regiment Illinois Volunteer Infantry, \$30.

William McGlone, late of Company D, Ninety-sixth Regiment Pennsylvania Volunteer Infantry, \$24.

Alexander Wilson, late of Company A, Ninety-fourth Regiment Illinois Volunteer Infantry, \$24.

Calvin Buntan, late of Company B, Eightieth Regiment New York Volunteer Infantry, \$24.

Lucia W. Huxford, widow of William P. Huxford, late captain Company G, One hundred and sixty-second Regiment New York Volunteer Infantry, and major, United States Army, retired, \$30.

James Doyle, late of Company K, Sixty-fifth Regiment Illinois Volunteer Infantry, \$30.

Charles O. Chapman, late of Company D, Eleventh Regiment Iowa Volunteer Infantry, \$30.

John S. Cilley, late second lieutenant Company B, First Regiment New Hampshire Volunteer Cavalry, \$30.

James H. Thompson, late of Company E, One hundredth Regiment United States Colored Volunteer Infantry, \$24.

Benjamin F. B. Holmes, late of Company C, First Regiment Massachusetts Volunteer Cavalry, \$30.

Ida M. Elder, widow of Alvah Elder, late of Company K, Thirtieth Regiment Maine Volunteer Infantry, \$12.

Thomas Loughney, late of Company L, Seventh Regiment, and Company A, First Regiment, Michigan Volunteer Cavalry, \$30.

William U. Thayer, late of Company C, Twenty-fourth Regiment Michigan Volunteer Infantry, \$30.

John Walsh, late of Company B, Third Regiment Massachusetts Volunteer Cavalry, \$24.

Marcellus E. McKellup, late of Company G, Tenth Regiment Kentucky Volunteer Cavalry, and Company C, Fifty-fourth Regiment Kentucky Volunteer Mounted Infantry, \$30.

George T. Kerans, late of Company H, One hundred and eighty-ninth Regiment Ohio Volunteer Infantry, \$24.

Byron Rudy, late of Company C, Sixteenth Regiment Kentucky Volunteer Infantry, \$24.

William A. Leech, late of Company I, Third Regiment Wisconsin Volunteer Infantry, \$40.

Anna H. Fitch, widow of Butler Fitch, late captain Eighth Independent Battery New York Volunteer Light Artillery, \$20.

Andrew J. Fogg, late first lieutenant Company B, Third Regiment New Hampshire Volunteer Infantry, \$40.

Otis Johnson, late of Company B, First Regiment Iowa Volunteer Cavalry, \$30.

Joseph P. Pittman, late of Company K, Sixty-first Regiment Illinois Volunteer Infantry, \$30.

Henry G. Tuttle, late of Company E, Forty-first Regiment Missouri Volunteer Infantry, \$24.

William Hise, late of Company C, Twenty-ninth Regiment Illinois Volunteer Infantry, \$30.

James H. Morley, late of Company C, Twenty-sixth Regiment Connecticut Volunteer Infantry, \$24.

Frank N. Jameison, late of Company G, Eighth Regiment Iowa Volunteer Infantry, \$30.

Edward J. Moss, helpless and dependent child of Benjamin R. Moss, late of Company G, Twenty-sixth Regiment Ohio Volunteer Infantry, \$12.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The VICE PRESIDENT. Is there further morning business? If not, morning business is closed.

ELECTION OF SENATORS BY DIRECT VOTE.

Mr. BORAH. I ask unanimous consent for the present consideration of Senate joint resolution 134.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. J. Res. 134) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. NELSON. Mr. President, I propose, in the briefest possible manner, to discuss what is involved in the so-called Sutherland amendment. Before proceeding to do so, however, I desire

to call attention to some preliminary matters. Fifteen written amendments have been adopted to the Constitution of the United States since it was ratified. The first 10 amendments were incorporated very soon after the Constitution was adopted. They are almost coeval with it, and have by many been termed the "American Bill of Rights;" in fact, most of the principles involved in those 10 articles were settled and confirmed by the English people in the English Revolution of 1688.

The next two amendments—the eleventh and twelfth—were adopted but a short time afterwards. The eleventh amendment prohibits suits against a State, and grew out of a controversy in the State of Georgia between the State and some Indian tribes in that State. The twelfth amendment relates to the election of President and Vice President.

Since the days of the Civil War we have adopted three additional amendments. One, the thirteenth amendment, abolishing slavery; another, the fourteenth amendment, defining and providing for the maintenance and protection of certain civil rights; and third, the fifteenth amendment, prohibiting discrimination in the right to vote on account of race, color, or previous condition of servitude.

In addition to these 15 written amendments, Mr. President, we have, as I conceive, substantially adopted two unwritten amendments. The first of these is an amendment which relates to the power assumed by the Supreme Court to determine whether the legislative department of the Government keeps within the pale of the Constitution. Nowhere in that instrument can we find any express grant of power to the Supreme Court to pass upon that question. We speak of our Government as a Government of three separate and distinct departments, each independent of the other, but in its ultimate analysis, as a matter of fact, that is not true, because the Supreme Court by judicial construction and interpretation has assumed the power to pass upon the question whether the legislative department, and, for that matter, in an appropriate case, the executive department, keep within the pale of the Constitution. So that in the ultimate and final analysis, the Supreme Court has assumed a power over the other departments that neither of them have assumed in respect to the Supreme Court.

The Supreme Court is composed of fallible men like the legislative department, and it is quite possible that it may at times be mistaken as to the constitutionality of a law. The court itself has furnished evidence on this point in some of its reversals. But, however this may be, this power, exercised by the Supreme Court for upward of a century, has become embedded in our judicial system and in our system of government so firmly that it may be treated as though it had been expressly written in the Constitution in the first instance.

The second unwritten amendment which has been adopted by the American people is that relating to the election of President and Vice President. The Constitution provides, as Senators know, for the appointment of electors by each State in such manner as the legislature thereof may direct, and that the electors so appointed shall choose or elect the President and Vice President. The theory of the Constitution was no doubt that these electors should act upon their own judgment and volition in making a choice, but we know that as a matter of fact, and in practical operation, this theory has become obsolete and been long abandoned. The electors now and for many years past merely register the voice and the will of those who choose them, and not their own individual choice, so that it has thus come to pass that the President and Vice President are really and in substance elected by a direct vote of the people.

Another unwritten constitutional amendment has been in process of adoption for a good many years and is still in process of adoption. I refer to the election of Senators by direct vote of the people instead of an election by the legislature. I lay less stress on the fact that the legislatures of various States have passed resolutions in favor of such an amendment to the Constitution. I lay more stress on the fact that in various States the people, in order to have their will enforced, in order to have a voice in the election of United States Senators, have adopted a system of primary laws under which the people vote directly for their candidate for Senator, and, while technically members of the legislature are not obliged to comply with the results at the primaries, yet we all know that, as a matter of fact, they do comply, and a member of the legislature would no more think of disregarding the voice of the primary in his State than would a presidential elector disregard the vote of the people who elected him.

In other States, instead of a primary law they have adopted a system of instruction, through party platforms, at State conventions; and in some cases it is by instructions of legislative nominating conventions. So, as a matter of fact, if we review and scan our whole political horizon we will find that in the

great majority of the States the people have taken this matter into their own hands, and in one form or another, either by a system of primary laws or by a system of instructions in party platforms, they have really and in substance, so far as they are concerned, adopted a constitutional amendment allowing them to express their choice for Senator as effectively as though they cast their votes directly for their candidate.

Now, one of the purposes of the joint resolution under consideration is to make this so-called unwritten amendment an effective written amendment of our Constitution. If the proposed amendment were limited to the one single question of transferring the right of election of Senators from the legislature to a direct vote of the people, I take it there would be little controversy on the subject, but the joint resolution which has been reported and is now on the calendar and under consideration goes much further than that.

The joint resolution reported by the Senator from Idaho and now under consideration is an exact copy of a joint resolution to amend the Constitution reported by Representative Tucker, of Virginia, in the Fifty-second Congress, on the 16th day of February, 1892. It is exactly identical with that resolution. Mr. Tucker, in his report, unlike the Senator from Idaho in his report, was candid enough to state what the entire purpose of the joint resolution was. The report of the Senator from Idaho on the joint resolution before the Senate contains this statement, and I want Senators to compare it with the report of Mr. Tucker on a similar joint resolution:

This amendment—

And I read from the report of the Senator from Idaho—

This amendment does not propose in any way to interfere with the fundamental law save and except the method or mode of choosing the Senators.

Now, let us see what Mr. Tucker says about the same amendment:

Article I, section 4, clause 1, is as follows:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

It is proposed to abrogate and annul the above in so far as it gives to Congress any control, absolute or remote and contingent, over the election of United States Senators, by substituting the following language, or so much thereof as refers to the election of Senators:

"The times, places, and manner of holding elections for Senators shall be as prescribed in each State by the legislature thereof."

Here is a plain, candid, honest avowal by Mr. Tucker as to the effect of his joint resolution. He not only states that it changes the mode of electing Senators by transferring the power of election from the legislatures to a direct vote of the people, but he goes further and admits and states very frankly that it is his purpose—that he proposes—to utterly divest Congress of all regulative power over the election of Senators. In other words, to repeal the first paragraph of section 4, Article I, of the Constitution, already quoted.

Mr. President, a great misconception has appeared both in the newspapers and in the remarks of Senators in this Chamber upon the so-called Sutherland amendment. I have heard many say—and it has been so said in the newspapers—that the Sutherland amendment proposes to engraft a new provision upon the Constitution of the United States. There is nothing of the kind in that amendment. The Sutherland amendment—and it is similar to an amendment that I offered in the Judiciary Committee of the Senate on the same subject—simply seeks to preserve one of the most vital and important paragraphs of the Constitution. That is the sole purpose of the Sutherland amendment.

Mr. President, I want to call your attention to this fact before I proceed further. If the joint resolution as reported by the Senator from Idaho is adopted in its entirety it will leave us with two separate rules in reference to the election of Senators and Representatives in Congress. By the first part of the joint resolution it is proposed to have Senators elected in the same manner as Members of the House of Representatives are elected, and yet if this joint resolution is adopted in its entirety we will have two rules governing elections by a direct vote of the people. The election of Members of the House of Representatives will continue to be subject to the ultimate regulative power of Congress, will still be subject to the provisions of paragraph 1 of section 4, Article I, of the Constitution, while in respect to the election of Senators elected at a popular election in the same manner as Representatives in Congress are elected the Federal Government will have no regulative power at all; the entire power will be vested in the State legislatures, to the utter exclusion of Congress.

The joint resolution not only takes away the ultimate regulative power of the Federal Government, but expressly, in exact

language, confers it upon the State legislature. Let me read the language:

The time—

It not only eliminates all of paragraph 1 of section 4, Article I, so far as it pertains to the election of Senators, but it substitutes in place of it the following:

The times, places, and manner of holding elections for Senators shall be as prescribed in each State by the legislature thereof.

In other words, it destroys the power of the Federal Government, and then, in the next breath, it confers that power absolutely and without qualification upon the legislatures of the several States.

Now, while the American people, or the most of them, I take it, are in favor of amending the Constitution so as to give the people a chance to vote directly for United States Senators, the great mass of the American people are utterly opposed to relinquishing all Federal control over the election of Senators, opposed to relinquishing the power that the Constitution now gives.

It is the theory of our Government, and it is a theory of all republican forms of government, that the source of all governmental power is ultimately and finally in the people. The American people have, for purposes of government, established two separate and distinct systems of government, a Federal and national system and a State and local system.

At home we are gophers, badgers, Wolverines, or whatever our States may be, but before the world and abroad we are of the United States of America. We are a nation. And the people who established these two systems of government, Federal and State, are as much interested in preserving the vitality, the integrity, and the independence of the one as of the other of those systems. The constitutions, Federal and State, are powers of attorney from the people to the respective governments, and the people have no desire and will not tolerate to place the one form of government at the mercy and sufferance of the other.

To confer the exclusive and ultimate power of regulating the election of United States Senators upon the State legislatures would be as bad in principle, as utterly wrong in principle, as to confer the power of regulating the election of members of the legislature upon Congress.

I was much interested in the argument of the Senator from Idaho [Mr. BORAH]. The first branch of the argument, if I understood him correctly, was to the effect that the States ought to have this power—a small matter anyway—the States ought to have the absolute control of the election of United States Senators. But in his final argument and final summing up he aimed to show—and that was the drift of a large part of his argument—that section 4 of Article I of the Constitution was of little value and there was no necessity for it; there were other sources of power to protect the Federal Government.

The Senator from Maryland [Mr. RAYNER] was much more candid. If I understood his remarks on this subject, they were to the effect that he and some of his friends regarded the elimination of paragraph 1 of section 4 of Article I of the Constitution of such importance that unless it was eliminated and there was substituted for it what is proposed in the joint resolution, they would not feel warranted in voting for the joint resolution.

So we have the situation where on the one side it is argued that this is such a serious question, it is a matter of such serious importance, that if you allow the people to vote directly for Senator of the United States you must rob the Federal Government of one of its great attributes of sovereignty, of its regulative power, and unless you are willing to do that they who thus argue can not support the joint resolution. On the other hand, the Senator from Idaho maintains that it is of little moment; that there are other parts of the Constitution that furnish ample power of regulation and protection.

Unfortunately the Senator from Idaho [Mr. BORAH] utterly disagrees with Alexander Hamilton. Alexander Hamilton, one of the leading members of the Constitutional Convention, and who had more to do with securing the adoption of the Constitution by the State of New York than any other statesman in that State, and without whose labor at that time probably New York would not have ratified the Constitution, regarded paragraph 1 of section 4 of Article I of such importance that he devoted three articles in the *Federalist* to this very paragraph in the Constitution—three very instructive articles or essays. Of course, I have not time to read them all to the Senate, but I want to call your attention to a part of what he says in his first article. I read from No. 59 of the first volume of *The Federalist*, concerning the regulation of elections:

The natural order of the subject leads us to consider, in this place, that provision of the Constitution which authorizes the National Legislature to regulate in the last resort the election of its own Members.

It is in these words: "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each

State by the legislature thereof, but the Congress may at any time by law make or alter such regulations, except as to places of choosing Senators." This provision has not only been declaimed against by those who condemn the Constitution in the gross, but it has been censured by those who have objected with less latitude and greater moderation, and in one instance it has been thought exceptionable by a gentleman who has declared himself the advocate of every other part of the system.

Now, listen to this:

I am greatly mistaken, notwithstanding, if there be any article in the whole plan more completely defensible than this. Its propriety rests upon the evidence of this plain proposition, that every government ought to contain in itself the means of its own preservation.

It will not be alleged that an election law could have been framed and inserted in the Constitution which would have been applicable to every probable change in the situation of the country; and it will, therefore, not be denied that a discretionary power over elections ought to exist somewhere. It will, I presume, be as readily conceded that there were only three ways in which this power could have been reasonably organized—that it must either have been lodged wholly in the National Legislature, or wholly in the State legislatures, or primarily in the latter, and ultimately in the former. The last mode has with reason been preferred by the convention. They have submitted the regulation of elections for the Federal Government in the first instance to the local administrations, which, in ordinary cases and when no improper views prevail, may be both more convenient and more satisfactory, but they have reserved to the national authority a right to interpose whenever extraordinary circumstances might render that interposition necessary to its safety.

Nothing can be more evident than that an exclusive power of regulating elections for the National Government in the hands of the State legislatures would leave the existence of the Union entirely at their mercy. They could at any moment annihilate it by neglecting to provide for the choice of persons to administer its affairs.

Suppose an article had been introduced into the Constitution empowering the United States to regulate the elections for the particular States; would any man have hesitated to condemn it, both as an unwarrantable transposition of power and as a premeditated engine for the destruction of the State governments? The violation of principle in this case would have required no comment, and to an unbiased observer it will not be less apparent in the project of subjecting the existence of the National Government in a similar respect to the pleasure of the State governments. An impartial view of the matter can not fail to result in a conviction that each, as far as possible, ought to depend on itself for its own preservation.

That, Mr. President, as Alexander Hamilton has stated so forcibly and clearly, is the gist of this whole question. Are we ready to turn over the exclusive power of regulation over the election of United States Senators to the exclusive control and jurisdiction of the States? And why, I ask, shall we have two rules in this matter? If Senators and Members are both alike to be elected in a similar manner by a popular vote, why should the Federal Government in one case have the ultimate regulating power and not in the other case? Why should the Federal Government retain the ultimate power of regulation in one case and be compelled to relinquish it in the other?

I take it that in reference to that part of the resolution which confers the exclusive regulative power upon the State legislature, the rule and principle of interpretation of the common law would apply, namely, "expressio unius est exclusio alterius." That is by expressly conferring the power upon the State legislatures you in effect take it entirely away from the Federal Government.

In this connection I wish to call the attention of the Senator from Iowa [Mr. CUMMINS] to a question that he propounded to the Senator from Montana [Mr. CARTER] the other day. I think the answer to it is found in the decision of Judge Bond of the circuit court in a case pending in the United States circuit court for the district of Maryland. I will read the syllabus as an answer to the question propounded by the Senator from Iowa.

The act of Congress—

And I take it that is the act he refers to—

The act of Congress of the 28th of February, 1871, as amended and embodied in title 26 of the Revised Statutes of the United States, more particularly sections 2021 and 2022, is constitutional, being authorized by section 4 of Article I of the National Constitution; and special deputy marshals of the United States will be protected by the Federal courts in discharging their duty under those sections of the Revised Statutes.

Mr. BACON. Mr. President—

The PRESIDING OFFICER (Mr. Root in the chair). Does the Senator from Minnesota yield to the Senator from Georgia?

Mr. NELSON. Certainly.

Mr. BACON. The Senator is reading from a decision?

Mr. NELSON. Yes, sir.

Mr. BACON. I do not know the case.

Mr. NELSON. I was simply reading a part of the syllabus, and I read it for the purpose of answering the question that I conceive was propounded by the Senator from Iowa to the Senator from Montana on Saturday.

Mr. BACON. A decision of the circuit court?

Mr. NELSON. Of the circuit court. It is in *First Hughes's Reports*, Fourth Circuit, volume 1, 592.

Mr. BACON. Not being familiar with that case, I venture to ask the learned Senator if he understands that rule to mean, in

the first place, that under that section it is competent to appoint deputy marshals to keep order at the polls and to carry out the provisions of law which provided for Federal supervisors? The particular point that I gathered from the reading of the syllabus by the Senator was that the Federal Government would sustain, and had the power and the duty to sustain, the deputy marshals in the performance of that duty; in other words, in the control, really, of the election. Do I understand that the meaning of it is that, if necessary, the military forces of the United States can be put at the disposition of the marshals for that purpose or be brought to their aid?

Mr. NELSON. The decision does not refer to military forces, but merely to the duties and powers of marshals in such cases.

Mr. BACON. Is not that the necessary consequence of it? Is not that the necessary meaning of it?

Mr. NELSON. Not necessarily.

Mr. BACON. That Congress, in the first place, would have the right to pass a law under which the registrars would be appointed by the Federal Government; the supervisors of the election would be appointed by the Federal Government; the judges of the election would be appointed by the Federal Government; the marshals and deputy marshals would be assigned to duty for the purpose of carrying out the orders of these registrars and supervisors and judges, and, if necessary, the Army of the United States would back up the deputy marshals in the maintenance of that authority. Is not that the necessary meaning of that decision? I am not disputing the correctness of it, but I am simply calling attention to what it leads to.

Mr. NELSON. Mr. President, I take it that the Federal Government has the right, under section 4 of Article I of the Constitution, to regulate, protect, and guard elections for Representatives in Congress, and if in any State—and we are as liable to have such a condition arise in the North as anywhere else in the country—if in any State, through lawlessness, riot, insurrection, or other causes, the people are not permitted to have a fair chance to vote either for a Member of Congress or a United States Senator, if the right of a direct vote for him is accorded, it is the duty of the Federal Government to protect them in that right and afford them an opportunity to exercise that privilege and right. It is like any other right conferred by the Constitution upon a citizen. If it is resisted, the Government must inevitably, in order to assert its supremacy, resort to such force as is necessary to execute the law if there is resistance to the law.

Mr. BACON. Mr. President—

Mr. NELSON. I will yield to the Senator in a moment, after I have stated the case more fully. In the first place, I state that the Federal Government can, in the matter of regulating elections, adopt one of two courses. It can either adopt the plan of establishing election machinery of its own relative to the election of Federal officials like Senators and Representatives, or it can adopt the machinery of the State government. But in either case the Federal Government has the ultimate power to regulate and control the election so far as it relates to the election of Senators or Congressmen.

Now I will yield to the Senator.

Mr. BACON. I think the Senator is entirely logical, and my purpose was not to take issue with the proposition which he had announced and which he was supporting by reference to authority, but for the purpose of calling attention to what would be the effect of the Sutherland amendment.

As I understand it, it is this: Of course, if the Sutherland amendment is adopted, the Federal Government would have the same power in regard to the regulation of the manner and the supervision of the election of Senators as it now has under the Constitution in the regulation of the manner and the supervision of the election of Representatives. That is a plain proposition.

As I understand the statement by the Senator, which I think is entirely correct, it is that under the recognized authority, the construed authority, decided by the courts, including the Supreme Court, the Federal Government in the case of Representatives now has the power which I am about to state, in the regulation of the manner of elections, to go forward and make a law which shall provide, in the first place, for registrars by the Federal Government, appointed through district courts, who shall determine and register the voters who shall be entitled to vote at the election.

Second. That Congress would have a right to provide in the law that the election, when it occurred, should be under the supervision of supervisors to be appointed by the district courts of the United States.

Third. That in that law there could be a provision for the appointment of Federal judges of the election, to be appointed by district judges of the United States.

Fourth. That there could be a provision in the law, as there has been in previous laws, for the attendance of marshals and deputy marshals of the United States, under the orders of the district courts of the United States, to maintain the authority of the registrars and the supervisors and the judges of election, to keep order at the polls and in other ways to carry out the orders of the Federal supervisors and Federal judges of elections.

Fifth. That if the deputy marshals were not of themselves of sufficient power and force to thus carry out the orders of the registrars and supervisors and judges of election appointed by the Federal power, the Army of the United States could be called in at the election, for the purpose of seeing that that authority was maintained.

As I understand it, that is the proposition as to the present power of the Federal Government in the supervising of elections of Representatives, and I take no issue with it, because I understand that to be the decision of the Supreme Court of the United States. The application I wish to make of it is that under the Sutherland amendment all that power would exist in the election of Senators by a direct vote of the people. Am I correct in that?

Mr. NELSON. Certainly; and why should it not be so, when we propose to elect Senators in the same manner as Representatives in Congress? All we ask, all that the Sutherland amendment implies, is that the Constitution shall be left as it is, and that the same rule shall apply to the election of Senators that applies to the election of Representatives. Where both are elected by a popular vote of the people I can not see any ground for making a distinction.

Mr. BACON. Mr. President, I will not now trespass upon the Senate to state the reasons the adoption of the Sutherland amendment would make a change, except that if the Sutherland amendment should be adopted, I shall ask the indulgence of the Senate to state why, in my judgment, the adoption of that amendment is such a radical change as would materially jeopardize the safety and interest of the people of the different States, and the resolution if thus amended, in my opinion should not be adopted.

I want to say to the Senator that I think he is logical not only in his construction of the legitimate consequences of the original proposition, or rather the application of it to the case of the election of Representatives; but he is equally logical in saying that it would equally apply to the election of Senators by a direct vote of the people if the Sutherland amendment should be adopted and put it in the same category.

There is one proposition upon which I entirely differ from the Senator. I will not take the time now to discuss it; it has been discussed heretofore; but I may trespass upon the Senate in a degree to repeat the argument to show that the proposed Sutherland amendment is not a continuance of the present provisions of the Constitution, but a most radical change; that the same words in the Constitution if applied to different and changed conditions of the law may make an entirely different condition of law. That is a proposition, however, that I do not feel I should properly trespass upon the Senate now to discuss.

Mr. CUMMINS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Iowa?

Mr. NELSON. Certainly; but I would like to briefly reply to the Senator from Georgia.

Mr. CUMMINS. Very well. I will reserve my question, then, until after the reply is made to the Senator from Georgia. I do not desire to interrogate the Senator on the same point at all.

Mr. NELSON. Very well.

The PRESIDING OFFICER. The Senator from Minnesota will proceed.

Mr. NELSON. In the first place, I find the best definition of what the word "manner" implies in this paragraph of the Constitution, "the time, place, and manner," in this Maryland case that I have quoted. Here is what the court says, and it is a good definition and a very brief one:

To regulate the manner of an election is to provide the means by which each elector expresses his choice freely and without hindrance or obstruction.

I can not see why any Senator should object to retaining in the Federal Government the ultimate power to regulate the "time, place, and manner" of holding these elections. This paragraph of the Constitution has been a part of it from the very beginning. The regulative power is given to the States in the first instance, with the ultimate and final power in the Federal Government. The framers of the Constitution said we will leave this matter, first, to the States to regulate the "time

place, and manner," but in case they should fail to make proper regulation, in case they should be negligent of their duty, in case their actions should be such as to jeopardize the integrity and welfare of the Government, we want to reserve the ultimate power in favor of the Federal Government.

It seems to me that this effort to strike down this paragraph of the Constitution is another mode of applying a doctrine which we have heard so much about among the reformers—the doctrine of "recall." I think in this case it is a "recall" of a part of the Constitution that is aimed at. Perhaps that is a part of the program of reform.

Mr. CUMMINS. Mr. President—

Mr. NELSON. Will the Senator allow me? I will yield to the Senator in a moment.

I desire in this connection, and in response to the statement made by the Senator from Georgia a moment ago, to quote the following from the opinion of the Supreme Court in the Siebold case, One hundredth United States, page 383:

There is no declaration that the regulations shall be made either wholly by the State legislatures or wholly by Congress. If Congress does not interfere of course they may be made wholly by the State, but if it chooses to interfere there is nothing in the words to prevent its doing so, either wholly or partially. On the contrary, their necessary implication is that it may do either. It may either make the regulations or it may alter them. If it only alters, leaving, as manifest convenience requires, the general organization of the polls to the State, there results a necessary cooperation of the two governments in regulating the subject. But no repugnance in the system of regulations can arise thence, for the power of Congress over the subject is paramount. It may be exercised as and when Congress sees fit to exercise it. When exercised, the action of Congress, so far as it extends and conflicts with the regulations of the State, necessarily supersedes them. This is implied in the power to "make or alter."

Now, I will yield to the Senator from Iowa.

Mr. CUMMINS. Mr. President, the Senator from Minnesota has summoned the very great authority of Alexander Hamilton with respect to this matter. I wish to ask him a question in regard to the views of that distinguished statesman as read a few moments ago.

He says, and it is quite true, that it is necessary for a government to maintain or hold the power to perpetuate itself for its own preservation. He says, and it is true, that with respect to Members of the House of Representatives the Federal Government could at any time disregard entirely the provisions of a State in regard to elections and organize and hold within the States an election for Members of the House of Representatives, and in that way, theoretically at least, preserve the House of Representatives. His words seemed to imply that something of that kind could also be done in order to preserve the Senate of the United States. My question is, with these preliminary suggestions, suppose a State were to refuse to elect Senators, by what process under section 4 of Article I could the Government of the United States enforce the election of Senators?

Mr. NELSON. All the Government could do would be to provide the proper election machinery, give the voter a full and free opportunity to express his choice at the ballot box, but it could not well compel him to vote. "You can lead a horse to water, but you can not make him drink."

Mr. CUMMINS. Yes.

Mr. NELSON. We could provide rules and regulations for holding an election, but it would not be in the power of the Federal Government to drive the people to the polls and compel them to vote—

Mr. CUMMINS. Precisely.

Mr. NELSON (continuing). Any more than it would be to compel the people of Iowa to go to the polls and vote.

Mr. CUMMINS. But we are acting here upon State governments with regard to the House of Representatives.

Mr. NELSON. Not when we pass—

Mr. CUMMINS. Yes.

Mr. NELSON. No; not when we pass this amendment giving the people the right to vote.

Mr. CUMMINS. The Senator from Minnesota did not allow me to finish.

Mr. NELSON. Go on.

Mr. CUMMINS. We are acting upon State governments in so far as the regulation of their machinery for holding elections is concerned. If, however, we desire to substitute for a regulation, a system of our own, and give the people of the States an opportunity to vote at a Federal election, we could do so.

Mr. NELSON. Certainly. Does the Senator doubt it?

Mr. CUMMINS. I do not.

Mr. NELSON. Can the Senator conceive of any reason, if we allow Senators to be elected in the same way as Members of the House of Representatives are now elected, for having a different rule in one case than in the other?

Mr. CUMMINS. I can not.

Mr. NELSON. I am glad to hear it.

Mr. CUMMINS. And the question, therefore, recurs with me—this is my personal opinion—as to the wisdom of granting that power to the General Government with respect to Members of the House of Representatives.

Mr. NELSON. It has that power now. We do not grant it.

Mr. OVERMAN. Mr. President, would there not be a different rule—

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from North Carolina?

Mr. NELSON. In a moment.

Mr. CUMMINS. I have not finished the question yet, and I think the Senator from Minnesota has not answered it.

Mr. NELSON. I will yield to the Senator from North Carolina when the Senator from Iowa has concluded.

Mr. CUMMINS. I will discuss these matters more connectedly hereafter.

What made me doubtful with regard to the full application of the quotation which the Senator read from the writings of Alexander Hamilton was that there is in the Constitution now no provision by which the Federal Government can perpetuate the Senate of the United States; that is entirely at the pleasure of the States. If the States fail to exercise that power, then follows a situation which can not be dealt with through the processes of the law. When that comes, it is the equivalent of an attempt at secession, and a higher power must intervene in order to protect the life of the Government of the United States.

Mr. NELSON. That is a state of insurrection.

Mr. CUMMINS. Precisely.

Mr. NELSON. That might occur in reference to the election of Members of the House of Representatives in the same manner.

Mr. CUMMINS. It is not possible that it should occur with regard to the Members of the House of Representatives, unless the people themselves, the voters themselves, should refuse to exercise their franchise.

Mr. NELSON. Such a thing is possible as well with members of the legislature. The State legislature is composed of men. If they should refuse to act in the case of the election of a United States Senator, and the people of a congressional district should refuse to vote or to go to the polls to vote for a Congressman, you have exactly the same condition in the one case as in the other. In one case the voters are simply individual citizens, while in the other they are members of the legislature, but in either case if they abstain entirely from performing their function and duty the same result follows. Now, I yield to the Senator from North Carolina.

Mr. OVERMAN. Mr. President, I understood the Senator from Minnesota to say that with the adoption of the Sutherland amendment the same rule would apply to the election of Senators and Members of the House of Representatives. Am I right about that?

Mr. NELSON. Yes; the same power.

Mr. OVERMAN. The same rule as to the election?

Mr. NELSON. The same rule.

Mr. OVERMAN. Article I, section 2, of the Constitution, as to the election of Members of the House, says:

SEC. 2. The House of Representatives shall be composed of Members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

There is a different rule. Congress fixes the rule as to the election of Members of the House of Representatives, but it would not do so as to Senators.

Mr. NELSON. But we have in this amendment—

Mr. OVERMAN. I do not see any such provision.

Mr. NELSON. We have in this very joint resolution—

Mr. OVERMAN. I should like the Senator to show me that. The joint resolution says:

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years.

I do not think there is any such provision, so far as I can see, in this amendment making a different rule.

Mr. NELSON. In what respect?

Mr. OVERMAN. As to the qualifications of electors. There is nothing said here about the qualifications of electors.

Mr. NELSON. Yes. I call the Senator's attention to lines 8, 9, and 10, on page 2.

Mr. OVERMAN. That provision, I think, has been stricken out.

Mr. NELSON. It reads:

The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

Mr. OVERMAN. That provision is stricken out of the copy of the resolution I have. I suppose that is the Sutherland amendment.

Mr. NELSON. It is proposed to be stricken out by the amendment of the Senator from New York, but it is a part of the original resolution. It is stricken out in this amended copy by the substitute offered by the Senator from New York.

Mr. OVERMAN. Then I was misinformed.

Mr. NELSON. So that the resolution applies precisely the same rule with respect to the qualifications of the electors for United States Senators as is applied to the qualifications of electors for Representatives in Congress.

Mr. President, the Senator from Idaho has called attention to numerous cases—and I think the Senator from Iowa saw the distinction—where the Government prosecuted men for violations of the election laws or for interfering with the right of suffrage under the Federal laws. His contention was that that had been done under the general powers of the Federal Government, and not under the fourth section of Article I of the Constitution. I want to call the Senator's attention to the fact that there is a great difference between prosecuting a man for a violation of a Federal right, for committing an offense in violation of a Federal law, and regulating and prescribing rules and regulations as to the manner in which an election shall be carried on.

It is one thing to prosecute a man for interfering as an individual with the exercise of the elective franchise under the Federal Constitution, and it is an entirely different thing for the Federal Government to prescribe rules and regulations for the conduct of that election.

I concede that under the general powers of the Federal Government, as expressed in the *Yarborough* case, independent of paragraph 4 of Article I, the Federal Government has a right to prosecute those who interfere with the exercise of the elective franchise. In this case the Supreme Court, by Justice Miller, said:

The proposition that it has no such power—

That is, the Federal Government—

The proposition that it has no such power is supported by the old argument often heard, often repeated, and in this court never assented to, that when a question of the power of Congress arises the advocate of the power must be able to place his finger on words which expressly grant it. The brief of counsel before us, though directed to the authority of that body to pass criminal laws, uses the same language. Because there is no express power to provide for preventing violence exercised on the voter as a means of controlling his vote, no such law can be enacted. It destroys at one blow, in construing the Constitution of the United States, the doctrine universally applied to all instruments of writing, that what is implied is as much a part of the instrument as what is expressed. This principle, in its application to the Constitution of the United States more than to almost any other writing, is a necessity, by reason of the inherent inability to put into words all derivative powers—a difficulty which the instrument itself recognizes by conferring on Congress the authority to pass all laws necessary and proper to carry into execution the powers expressly granted and all other powers vested in the Government or any branch of it by the Constitution.

The court adds:

We know of no express authority to pass laws to punish theft or burglary of the Treasury of the United States. Is there, therefore, no power in the Congress to protect the Treasury by punishing such theft and burglary?

Are the mails of the United States and the money carried in them to be left to the mercy of robbers and of thieves who may handle the mail because the Constitution contains no express words of power in Congress to enact laws for the punishment of those offenses? The principle, if sound, would abolish the entire criminal jurisdiction of the courts of the United States and the laws which confer that jurisdiction.

So, Mr. President, while the Government of the United States has the power to enact and enforce criminal laws to punish men who interfere with Federal elections, to punish men who prevent its voters from exercising their rights as American citizens, under the general powers given by the Constitution, yet the power to regulate the manner and mode in which elections shall be carried on is entirely distinct, and can rest on no other ground than paragraph 4 of Article I of the Constitution.

Mr. CUMMINS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Iowa?

Mr. NELSON. Certainly.

Mr. CUMMINS. I would not want the Senator from Minnesota to misunderstand my position. He seems to differentiate it from the position of the Senator from Idaho [Mr. BORAH]. As I understood the argument of the Senator from Idaho, I was entirely in accord with him, and the paragraph just read, I think, exemplifies better than anything else could do the point made by the Senator from Idaho. It is true that the Government punishes theft under an inferential power, if you please, but would the Senator from Minnesota say that under the same power the Government had not the power to provide for post-office inspectors, for watchmen, and for every other sort of supervision and care that will prevent or would have a tendency to prevent the theft?

Mr. NELSON. That comes under the general power of establishing post offices and post roads.

Mr. CUMMINS. Precisely; and therefore under the same general powers with regard to the exercise of the right of suffrage, the Government has the power to appoint inspectors, to appoint supervisors, to appoint whatsoever instrumentalities are necessary to see to it that the laws of the United States or the rights guaranteed by the Constitution of the United States are not violated or invaded.

Mr. NELSON. That would be true under the Constitution as it is, but not as it will be if the joint resolution of the Senator from Idaho prevails.

Mr. CUMMINS. Therein I differ from the Senator from Minnesota.

Mr. NELSON. Let me read what the Supreme Court of the United States say on this very point.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Idaho?

Mr. NELSON. Certainly.

Mr. BORAH. It is not quite correct to say "the joint resolution of the Senator from Idaho," but the joint resolution which came from the Judiciary Committee.

Mr. NELSON. The Tucker resolution of 1892. I read from the case of *Ex parte Siebold*, One hundredth United States Reports, page 383. The court say:

The clause of the Constitution under which the power of Congress, as well as that of the State legislatures, to regulate the election of Senators and Representatives arises, is as follows: "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the place of choosing Senators."

Mr. BACON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Georgia?

Mr. NELSON. Certainly.

Mr. BACON. This relates to a matter that has been passed over, but it is in connection with what the Senator is now reading. I have endeavored to enumerate, and have the Senator's judgment upon the enumeration, as to whether or not it was correct, the powers which Congress can now exercise, under the provision of the Constitution in the regulation of the manner of the election of Representatives; and I asked the Senator's opinion as to whether the same powers would exist in case the Sutherland amendment were adopted, and we should have direct election of Senators by the people; to which the Senator has properly, I think, and logically assented.

In that enumeration I omitted one that I think very important. It relates directly to what would be the effect of the Sutherland amendment. That is the question before us.

I enumerated first the power to appoint registrars, to register the voters and determine who should register and who should not register. That is one. Second, the appointment of supervisors of elections; and, third, the appointment of judges of election. Fourth, the authorization, and not only authorization, but direction, that marshals and deputy marshals, under the orders of the district court, should be at the election to maintain the authority of these registrars, supervisors, and judges; and, if necessary, that these marshals and deputy marshals should be supported by the military force, to see that the orders of these Federal officers, supervisors, and judges of elections in the State should be properly carried out and their authority maintained.

I enumerated all that, and there can be no question, under the decisions of the Supreme Court, that all of that can be done now as to the election of Representatives, although I do not think there should be any such power, and if there is any such power in the election of Representatives, I do not wish to extend it to the election of Senators. There is one, however, which I omitted, and that is they would have the still further power to appoint a returning board—the board which would canvass the returns and determine who should be declared elected as a Senator from the State. So that we would have not only the registration of voters in the States for election for Senators, and the supervisors of election, and the judges of election, and the marshals and deputy marshals, and, if need be, the military force of the United States in supervising and controlling the elections, but we would have further the provision that the ultimate decision as to who was elected as a Senator and sent to this body should be by the board appointed by the district court of the United States to canvass the returns and determine the result. Would not that also be included in one of the powers under the Sutherland amendment?

Mr. NELSON. The Senator does not state the question exactly as it is. The Sutherland amendment does not change the Constitution in any particular. It leaves it as it is. The enumeration that the Senator makes applies with force and with exact fullness to the election of Congressmen under the Constitution as it is.

Mr. BACON. I understand that.

Mr. NELSON. The only difference would be if we leave that paragraph of the Constitution untouched, leave it as it is, as it has existed since the foundation of the Government, it would place the election of United States Senators by direct vote of the people on the same basis as the election of Representatives in Congress by direct vote.

Mr. BACON. If the Senator will pardon me, I do not take issue with him on that at all—that is, as to the result.

Mr. NELSON. So it is hardly correct to charge this up to the Sutherland amendment. The Sutherland amendment simply aims to leave the Constitution unbroken. There is no "recall" about it at all.

Mr. BACON. I was about to say—I thought the Senator was through or I would not have interrupted him.

Mr. NELSON. I am quite willing. I am always glad to have the Senator interrupt me.

Mr. BACON. I know; but I did not wish to interrupt the Senator before he finished his statement; and I beg his pardon, having done so only under a misapprehension. The question as to whether or not there is a change, I can not now stop to argue, because it would take too long. I am speaking of the practical result. I think there would be a great change in the law. I will endeavor later to show why. But, leaving that out of the question, the question is the practical result. The Senator will, of course, recognize the fact, and all of us must recognize it, that if the Sutherland amendment is adopted the rule with regard to the election of Senators by the people will be exactly the same as is now the rule with reference to the election of Representatives by the people.

Mr. NELSON. Certainly.

Mr. BACON. There is no question about that; and the question whether or not it is a change it is not necessary to discuss for the purpose I have in view, which is to bring clearly to the attention of the Senate what will be the effect of the adoption of the Sutherland amendment, to wit, that it will put the control of the election of Senators under exactly the same power that there is now as to the election of Representatives; and I have enumerated what are those several powers. The Senator has agreed to it.

Mr. NELSON. The Senator is undoubtedly correct.

Mr. BACON. The Senator has agreed to those I have enumerated as being the powers which, under the decisions of the Supreme Court, the Congress of the United States can exercise through the enactment of law in the control of the election of Representatives; and, of course, if the Sutherland amendment is adopted exactly the same powers will exist as to the election of Senators by the people; and I wish to add the other, and one which, undoubtedly, under the decisions of the Supreme Court, would exist as to the election of Representatives, to wit, the power to enact into law not only that there shall be Federal registrars and Federal supervisors and Federal judges and deputy marshals and military force at the polls, but that after all that there shall be a Federal returning board to determine who has been elected.

Mr. NELSON. Now, all such things, if the Senator is through—

Mr. BACON. Yes.

Mr. NELSON. All such things are liable to occur in case we have a state of chaos, in case the Government is disorganized and lawlessness prevails; and it is as liable to occur in the North as in the South.

I am in favor of maintaining the vitality and integrity of the Federal Government in this particular, not because of past conditions in the South, but because of conditions that are likely to come and confront us in the North, and because I do not want the legislative department of the Federal Government placed at the mercy of the State legislatures.

Mr. SUTHERLAND. Mr. President—

Mr. NELSON. Without any regard to conditions in the Southern States, as a matter of self-preservation, for the welfare of the people of the Northern States as well as the South, I insist that this paragraph of the Constitution should remain intact and not be repealed or amended.

Mr. BACON. Mr. President, the Senator will pardon me for a moment?

The VICE PRESIDENT. To whom does the Senator from Minnesota yield?

Mr. NELSON. I yield first to the Senator from Georgia.

Mr. BACON. Only a moment. The Senator will certainly bear me out that I have not this morning said anything about any section. There has been no mention about the South, the North, the East, or the West.

Mr. NELSON. The Senator will pardon me if I did refer to the South.

Mr. BACON. That is all right.

Mr. NELSON. I did not do it in an un-Christian sense.

Mr. BACON. I want to say to the Senator, though, that there was a law upon the statute books which contained all of the powers I have enumerated except the power of returning boards, which they could have had and which was practically the same thing with judges of election, which they had. There was a law of that kind upon the statute books with relation to election of Representatives by the people. It remained on our statute books for 23 years, and it was not at a time of chaos or anarchy or disorder.

Mr. SUTHERLAND. Will the Senator from Minnesota allow me?

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Utah?

Mr. NELSON. Yes.

Mr. SUTHERLAND. Will the Senator from Minnesota permit me to call his attention and that of the Senator from Georgia as well to the fact that the law to which he refers—namely, the enforcement act of 1870—was passed as much because of chaotic conditions in the city of New York and other of the large northern cities as it was because of conditions elsewhere. If the Senator will read the very voluminous report which was presented to the House by Mr. LAWRENCE he will find a recital of the conditions which prevailed in those great northern cities which, to my mind, made the passage of the law of 1870 not only a necessity but a patriotic duty upon the part of the Congress of the United States.

Mr. BACON. I understand what the Senator from Utah has just said to have been addressed to the Senator from Minnesota and not to myself, because I said nothing about either the cities of the North or the conditions in the South.

Mr. YOUNG. Mr. President—

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Iowa?

Mr. NELSON. Certainly.

Mr. YOUNG. I should like to ask the Senator from Minnesota one or two plain questions. One is, Does the Sutherland amendment do otherwise than try to have Senators in Congress elected as Representatives are now elected? Is that the purpose of the Sutherland amendment?

Mr. NELSON. Yes. If the Sutherland amendment is adopted the balance of the joint resolution would merely transfer the election of United States Senators from the State legislatures to a direct vote of the people.

Mr. YOUNG. I believe the Senator from Minnesota does not understand my question.

Mr. NELSON. I fear I do not.

Mr. YOUNG. I will make it a little clearer. Is it the purpose of the Sutherland amendment to elect Senators in Congress as Representatives in Congress have heretofore been elected? Is that the purpose?

Mr. NELSON. The purpose and effect of adopting that amendment is just what I have stated. The only object of the Sutherland amendment is to leave that part of the Constitution which confers the ultimate regulative power upon Congress in respect to the election of both Congressmen and Senators untrammelled and in full force and vigor as it has heretofore been.

Mr. YOUNG. I want to ask the Senator from Minnesota another question. Is there anything in the Sutherland amendment involving a conspiracy against the South?

Mr. NELSON. Not unless it may be regarded as a conspiracy to insist on maintaining the integrity of the Constitution as it is.

Mr. YOUNG. Another question. Does this give Congress or the Federal Government any additional control over the election boards and those concerned in elections—powers that such boards do not now have in regard to the election of Representatives in Congress?

Mr. NELSON. It does not change or increase the power of the Federal Government in the least. I want to say, however, to the Senator from Iowa that while the election laws to which reference has been made by the Senator from Georgia, involving marshals and registration boards, and so forth, were enacted during a period of more or less lawlessness in some sections, and the necessity was felt in some parts at the time for their enactment. These laws long ago became obsolete and have been repealed, and are not likely to be restored as long as peaceful and orderly methods of election prevail, as in recent years.

So long as voters are permitted to exercise the elective franchise for Federal offices freely and without intimidation, Congress will not intervene, but will leave the State legislatures to regulate the manner of holding elections. Congress will not intervene except when it becomes absolutely necessary, and as long as the States, no matter in what part of the country they may be, allow the people to exercise the elective franchise freely and without intimidation and restraint, Congress is not at all likely to return to the legislation of bygone periods. I for one do not believe in having such laws on the statute books except in case of urgent necessity.

Mr. YOUNG. I inferred from the inquiries propounded by the Senator from Georgia that something new and radical was about to be put into the Constitution which would disturb the peaceful relations of the South and be a new evidence that the war is not over, and I wanted to know if there was anything in the Sutherland amendment justifying these anticipations. I am anxious to see no new law put on the statute books that shall oppress the people, and I am especially anxious that Senators be made elective, as Representatives in Congress are now elected, if I can fully understand how this can be accomplished. The Senator from Georgia has mystified me considerably on the subject; hence I make these inquiries.

Mr. NELSON. I can tell the Senator—

Mr. BACON. Will the Senator pardon me for a moment?

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Georgia?

Mr. NELSON. Yes.

Mr. BACON. I am extremely mortified that I should have had such an unpleasant effect in what I have said upon the understanding of the Senator from Iowa. I just rise to say this: I have studiously avoided saying anything about any section. I have not mentioned the word "South" in the morning's debate. I have no desire to do so. On the contrary, I have every desire to avoid it. But the Senators seem determined that it shall be dragged in.

The Senator from Minnesota makes an application of it which I had not made and makes a direct reference to the question of conditions in the South, which I had not made. The Senator from Iowa says that what I have said has reference to it. I have not mentioned anything of the sort and I will now forbear, unless Senators insist upon it. But if they do insist upon it we can have something to say about the South, and a good deal. We do not desire to say it, and have studiously avoided any reference to it, and yet Senators seem to think that it should be said and are determined that it shall be said.

I will wait now, Mr. President, to see whether the Senators still further insist that this shall be made a sectional question.

Mr. CLARK of Wyoming. Mr. President, with the permission of the Senator from Minnesota, I should like to ask the Senator from Georgia a question.

Mr. NELSON. I yield.

Mr. CLARK of Wyoming. I should like to ask the Senator from Georgia a question as to his views upon the particular point under discussion.

I gathered from the Senator's statement that he believes the adoption of the Sutherland amendment would create a greater or a different power in Congress over the election of Senators by the people than now exists over the election of Representatives in Congress. Am I right in that assumption of the Senator's views?

Mr. BACON. Mr. President, I have been certainly very unfortunate this morning. I have mystified the Senator from Iowa [Mr. Young], and my learned and distinguished friend from Wyoming [Mr. Clark] has utterly and entirely misunderstood me. So far from that being the case—

Mr. CLARK of Wyoming. The Senator's statement—

Mr. BACON. I hope the Senator will let me finish the sentence. So far from that being the case, I have endeavored, as emphatically as I could, to present the proposition that it would put the election of Senators, if they were held by direct vote of the people, under exactly the same law that now obtains as to the election of Representatives; and that is the particular thing I object to. So far from it being a different one, the thing I object to is it will be the same.

Mr. CLARK of Wyoming. The Senator from Georgia did not mystify the Senator from Wyoming, but the Senator from Wyoming thought perhaps he misunderstood the Senator from Georgia.

Mr. BACON. No.

Mr. CLARK of Wyoming. Now, having the clear position of the Senator from Georgia, that the Sutherland amendment gives Congress the reserve right over the election of Senators by the people to the same degree that it has over the election

of Members of the House of Representatives, I understand the position of the Senator to be that that ought not to occur.

Mr. BACON. I do most distinctly, and I will not trespass upon—

Mr. CLARK of Wyoming. I suppose the Senator will later give us his reasons on that.

Mr. BACON. I will endeavor to do so, provided the Sutherland amendment is adopted. If the Sutherland amendment is adopted, I will have something to say. If it is not—

Mr. CLARK of Wyoming. I hope the Senator will give us his reasons anyway, because we would be delighted to hear them.

Mr. BACON. I have been trying to indicate already in the running debate that I shall not occupy the Senate with anything like an argument on the question if the Sutherland amendment is not adopted. If the Sutherland amendment is not adopted, I shall vote for the resolution as it came from the committee. If the Sutherland amendment is adopted, and the radical change is made which that would involve, I shall endeavor to give the Senate some reasons why I will not vote for it.

Mr. NELSON. Mr. President, what is the condition we are in in respect to this joint resolution? The Senator from Idaho [Mr. BORAH], who is most zealous in securing the right of electing Senators by the people, comes to us and, in substance, says, "You can have the privilege of transferring the power of electing Senators from the legislature to the people, but you must agree to 'recall' a part of the Constitution of the United States that has existed from the very beginning of the Government. You must relinquish all ultimate regulative power on the part of Congress and confer it exclusively upon the States. If you will agree to that you can have the blessed privilege of securing this constitutional amendment."

I beg leave in this connection to quote from Justice Woods, of the circuit court, afterwards of the Supreme Court of the United States, from the case found in Third Woods, Circuit Court Reports, pages 196 and 197, the case of the United States against Goldman. The judge states the principle involved so clearly and forcibly that I ask the indulgence of the Senate while I read it:

Section 4 of Article I, in effect, declares that the Congress may at any time, by law, make regulations prescribing the time, place, and manner of holding elections for Senators and Representatives, except as to the places of choosing Senators.

The purpose—

I call the attention of Senators to this—

The purpose of conferring this power upon Congress was that the country might not be in danger of having no Congress through the indifference of the States or their hostility to the General Government.

It was to place it out of the power of the States to prevent the election of a Congress by obstructive laws or in any other way. The ultimate right of regulating the time, place, and manner of choosing Representatives, and the time and manner of choosing Senators was therefore given to Congress, so that it might always be within the power of Congress to secure the election of a Senate and House of Representatives. (Story on the Constitution, sec. 817.)

The clause of the Constitution under consideration does not confer rights or privileges upon the individual citizen.

I call the attention of the Senator from Georgia to that:

The clause of the Constitution under consideration does not confer rights or privileges upon the individual citizen. It is a clause framed to secure the existence of the Government itself, and was made in the interest of all the people of all the States.

Such being the object and scope, what is the power granted by it? It authorizes Congress to regulate the time, place, and manner of choosing Representatives in Congress. The terms "time and place" need no commentary. What is meant by the words "manner of holding elections?"

An election is not simply the depositing of a ballot in a box. If the elector is forced to vote a certain ballot against his will it is not an election so far as he is concerned, and equally so if he is prevented by violence from voting at all. An election is the expression of the free and untrammelled choice of the electors. There must be a choice and the expression of it to constitute an election. Under our American Constitution an election implies a free interchange and comparison of views on the part of the people who are voters, and finally an independent expression of choice. Any interference with the right of the elector to make up his mind how he shall vote is as much an interference with his right to vote as if he were prevented from depositing his ballot in the ballot box after he had made up his mind.

Mr. President, another branch of the argument against the Sutherland amendment is that because each House of Congress has the right to pass upon the returns, the election, and the qualification of its Members, therefore there could be no harm in eliminating paragraph 1 of section 4 of Article I from the Constitution.

Mr. President, the paragraphs of the Constitution in reference to the qualifications of Senators, and the right of each House to pass upon the election, returns, and qualifications of its Members relates only to the question of whether a Senator is qualified and has been duly elected. It has no bearing on the question of protecting the voter in the exercise of the elective franchise. It has no relevancy on the question of providing the necessary machinery for securing a free and fair election. It

has nothing to do with the matter of regulating elections or the manner in which they are to be conducted.

Mr. President, the framers of the Constitution exhibited no greater wisdom in any part of the Constitution than in this portion that is sought to be eliminated by the pending joint resolution. As Alexander Hamilton, in his three papers in the *Federalist*, has well said, paragraph 1, section 4, Article I of the Constitution pertains to the integrity, the vitality, and the existence of the Federal Government; and it would be a crime for us to shackle our Federal Government and place it at the mercy and control of the State legislatures by repealing this paragraph.

At present peace prevails throughout our country. The laws are enforced North and South. There is no trouble at present anywhere; there is no occasion for Federal interference; but the time may come in the distant future—and it is as liable to come in our part of the country as anywhere else—when it will be necessary for the Federal Government to intervene in respect to Federal elections in order to maintain its integrity, its vitality and existence. To strip the Government of all power, tie it hand and foot, and place it at the mercy of the States is a reform that the people of this country, I am satisfied, will spurn. If the people of the country are given to understand the true nature of this joint resolution and that they are merely afforded an opportunity to vote directly for Senators upon the condition of divesting Congress of all regulative control over the election of Senators, and conferring such control exclusively on the State legislatures, they will certainly see to it that such an amendment to the Constitution is not ratified. There is not an elector who has the welfare of the Federal Government at heart who would not spurn such a constitutional amendment.

We should be slow, Mr. President, to change any important paragraph of the Constitution. We are justified in transferring the election of Senators from the legislature to the people because the people have asked it, because the people in adopting primary laws, in passing resolutions at State and legislative conventions, have clearly indicated their intense desire to have such an amendment adopted.

But there is no justification, no call, no demand for destroying other vital parts of the Constitution, and while I have always, from the time I have had anything to do with Federal legislation, been heartily in favor of conferring upon the people the right to elect their Senators by a popular vote instead of leaving it with the legislature, yet I will never consent to make the change if it is to be conditioned on relinquishing all power of regulating elections on the part of the Federal Government and placing that power wholly and entirely in the control of the State legislatures, thus placing the legislative department of the Federal Government entirely at the mercy of the States.

I trust Senators will look at this question not from an "uplift" standpoint, not from the standpoint of the "recall," but from the standpoint of the welfare of the entire American people, and look at it from the standpoint of what is likely to occur in the distant future when the strain upon our Government will become greater than it has ever been in the past. The historian Macaulay, in his *History of England*, says in one place—I can not quote his language exactly, but the substance is this—that the people of America have a large area of fertile, wild, and untilled land where the congested population in the large cities and industrial centers can go in time of stress and lack of work to secure homes and a living for themselves and their families, and as long as this condition exists there will be smooth sailing for the Republic and it will be no difficult thing to enforce the rule of republican institutions; but when the country becomes overpopulated, like portions of Europe, when the cities and industrial centers become congested, when men are idle and can secure no work and there is no more cheap land or new country to occupy and develop, then will come the real strain upon republican institutions. And that day will come. It will not be in my day. It may not come in the day of any of the Senators here. But the time will come when the United States of America will be as densely populated as some of the most densely populated portions of the Old World, and then the stress and the strain will come upon this Government, State and Federal, as never before except in the Civil War. When that day arrives it will be well to have our Federal Government equipped with all the powers the fathers of the Republic, the framers of the Constitution, equipped it with instead of having it stripped of some of its most vital powers, as would be the case if the Sutherland amendment is not adopted.

Mr. BACON. Before the Senator takes his seat, or before he passes from that particular part of his remarks, I should like to make an inquiry of him.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Does the Senator from Minnesota yield to the Senator from Georgia?

Mr. NELSON. Certainly. I want to say to the Senator that for his kindness in giving me a little time when I was urged to proceed the other night I feel like giving him all my time.

Mr. BACON. I thought it a courtesy due to the Senator. I do not criticize those who thought otherwise, but I was very glad to endeavor to give the Senator the opportunity which he has so well utilized this morning.

The question I want to ask the Senator is this: Does the Senator regard that it is any more important that the Federal Government should have the power to regulate in all its details the election of a Senator by the people, because the power to regulate in all its details is what the Sutherland amendment means—does he regard it any more important that the Federal Government should have the power to regulate in all its details the election of a Senator, if such election is by a direct vote of the people, than that the Federal Government should have the power to regulate in all its details the election of a President of the United States?

Mr. NELSON. That is a different question. I should certainly think the Government ought to have something to say on that question.

Mr. BACON. Very well. The Senator must recognize the fact that in the election of a President of the United States the Federal Government has not the power to regulate the manner of the election, so far as the question of voting at the polls is concerned. The Senator has said that we have an unwritten amendment to the Constitution by which the President is elected by a direct vote of the people now.

Mr. NELSON. In that case there is not an election by a direct vote of the people, but indirectly, as I have suggested.

Mr. BACON. Exactly; but still that is the effect of it, and the Senator has contended that it should remain so. The Federal Government has not the power now to regulate the citizens when they go to the ballot box for the purpose of electing those officers who will select a Senator, but the Federal Government will have, under the Sutherland amendment, if the resolution is adopted, and if it should be ratified by three-fourths of the States and become a law, the right to control the citizen in his exercise of the right of suffrage when he went to vote for a Senator. If that is to be extended in the case of a Senator, I suppose the Senator would advocate an additional amendment to the Constitution requiring a direct vote of the people in the election of a President, with control of the election by Congress.

Mr. NELSON. It does not extend the power at all as to Senators. It leaves the power as it now is.

Mr. BACON. I will not discuss that proposition now. I pretermitted that to a later day. It undoubtedly, in practical effect, does in effect make a change, because the election at the polls now which ultimately results in the election of a Senator is not subject to the control of Congress, and if the law should be so changed that we should have a direct vote under the present provisions of the Constitution, if you please, which is the effect of the Sutherland amendment, the Federal Government would then have the power to control the manner in which that should be held.

But that is not the question I want to discuss now. The point I am bringing the Senator to is this: The Senator is perfectly content, I assume, that the election for President of the United States should remain as it is now.

Mr. NELSON. Certainly.

Mr. BACON. Very well. Under the present system the Senator's own statement is that the practical effect is that the election is by the people, and yet under the system now in vogue the Federal Government has no power to control the manner of the election or to prescribe any of the details of it.

Now, if the Senator will pardon me, I will make myself entirely clear in stating the proposition. The Senator has stated the fact that practically the election of President is now by direct vote of the people in each State, and he is certainly correct in that. He went even to the extent of saying it is a practice so settled, so immutable, that it amounts to an unwritten amendment to the Constitution of the United States.

It is perfectly safe, according to the view of the people of the United States in the adoption of that unwritten amendment, having the exercise of the power under an unwritten amendment, to conduct the election of President of the United States without any possibility of Congress interfering in any manner to regulate the manner in which the votes shall be cast.

Of course, the only legitimate conclusion from the Senator's argument is that following the amendment to elect Senators by the people with power in Congress to control the same, we must

have another amendment of the Constitution which shall dispense with the election of President as we now have it, and give us an election of President by direct vote in each State, and of course with power in Congress to pass laws to supervise that election, which they now have not the power to do.

Mr. CARTER. Mr. President, will the Senator yield to me a moment.

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Montana?

Mr. NELSON. Certainly.

Mr. CARTER. I submit to the Senator from Georgia that his proposition that the Federal Government can have nought whatever so say about the manner of conducting the election of electors is a conclusion deduced from the constitutional phraseology relating to electors alone. The Senator will recall the fact that the Constitution vests in Congress the power to fix the time at which the presidential electors shall be chosen and to prescribe the day upon which they shall meet and cast their votes for President and Vice President of the United States. This power to fix the time enables the Congress to prescribe the same day for the voting for presidential electors and Members of the House of Representatives. That has always been done.

So the power that regulates the election of Representatives in Congress of necessity regulates the casting of votes, the counting of votes, if need be, the registration of the voters; and when registered and cast and counted freely and without restraint, fraud, or violence to interfere for the Member of Congress, the right is, of course, exercised in the same manner as to the presidential electors.

Mr. BORAH. Suppose that the legislature of a State should provide that presidential electors should be appointed by the legislature of that State, which they may do—

Mr. NELSON. They may do it under the Constitution as it is.

Mr. BACON. Of course they can.

Mr. BORAH. And they have done so.

Mr. BACON. Yes.

Mr. CARTER. That could be done.

Mr. BORAH. What would be the pertinency of the Senator's suggestion then?

Mr. CARTER. That in practical operation from the beginning the same power that regulates the election of an elector regulates the election of Members of Congress. I concede that the State might provide that the legislature should choose the electors.

Mr. BACON. With the permission of the Senator from Minnesota, I wish to say to the Senator from Montana that there have been States which did elect their electors in that way. If I recollect aright, the State of South Carolina elected its presidential electors up to the time of the Civil War by its legislature.

But there is still a more direct answer to the Senator from Montana. The Senator's argument is that with the power in Congress to prescribe the day upon which the electors shall be elected, and the power in the Congress also to prescribe the day on which the Representatives shall be elected, by prescribing the same day in each case necessarily the control which they exercise over the election in the case of Representatives would extend to the case of the election over the presidential electors. That is the Senator's argument.

Mr. President, it is perfectly competent for the State to have two elections on the same day and prescribe that, apart from the election of Representatives, the voters for presidential electors shall vote in a different house and in a different box altogether, and under a different registration and under a different supervision in every particular. There is no possible ground upon which the argument of the Senator can rest.

Mr. SUTHERLAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Utah?

Mr. NELSON. Certainly.

Mr. SUTHERLAND. As I understand the inquiry of the Senator from Georgia, it is why should the Constitution make a difference as between the election or appointment of electors for President and the election of Representatives?

Mr. BACON. No; the Senator has not correctly stated it.

Mr. SUTHERLAND. What is the Senator's inquiry, then?

Mr. BACON. I was replying to what the Senator from Minnesota had said, drawing the contrast, according to his own statement, between the effect of the law in the election of President from the effect of it in the election of Representatives. Of course, it is conceded that in one case it is a State officer and in the other it is not. The elector is a State officer and the Representative is not a State officer. The question, as phrased by the Senator from Utah, is one, of course, very

easily answered, but that was not my question. My question was this: The Senator from Minnesota had presented a very earnest and strong argument in support of the proposition that it was essential to the safety of the Government, essential to the interest and the welfare of the people at large all over the United States, that the election of a Senator, if it was by direct vote of the people, should be under the control of the Federal Government if the necessity, in the opinion of Congress, should arise for that to be.

The Senator had previously said that we had an unwritten amendment of the Constitution under which the President of the United States is now in effect not elected by presidential electors, but, in practical effect, elected by a direct vote of the people in each State. I had simply replied to see whether or not the latter, the other branch of the argument of the Senator from Minnesota, was one founded in great necessity. If it be true that a direct vote of the people for the President under State control is now practically the law under an unwritten constitution, and the people are content with it and safe with it, why should they not be safe and content with it if we had an election of Senators by a direct vote of the people also under State control. The effect is the President is now elected by a direct vote of the people with no power in the Federal Government to supervise the election.

Mr. SMITH of Michigan. But they may fix the time.

Mr. BACON. Of course, but that is a minor matter, and not the manner.

Mr. SMITH of Michigan. And the time is stricken out of the Constitution.

Mr. BACON. Not the manner.

Mr. SMITH of Michigan. But the time is very essential to uniformity.

Mr. BACON. The Senator wants the time; I am perfectly willing that the Federal Government should fix the time of the election, but not the manner.

Mr. NELSON. If the Senator from Georgia will allow me, the case he puts is not a parallel case. The manner of electing presidential electors, if the Senator will refer to the Constitution he will see is put on the same ground as electing members of the legislature.

Mr. BACON. Of course.

Mr. NELSON. Members of the legislature are elected under the present system by the State governments, and under the Constitution as it reads to-day the States elect presidential electors the same as they do the members of the legislature and Congress. The Constitution leaves the election of the electors untrammelled and free, just as the election of members of the legislature. Here is the language of the Constitution:

Each State shall appoint, in such manner as the legislature thereof may direct—

The Senator is correct; the State of South Carolina before the Civil War did select, if I recall it, their presidential electors by the legislature.

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States shall be appointed an elector.

Mr. BACON. Mr. President—

Mr. NELSON. Then in this connection let me read the following:

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

Now, in reference to presidential electors the situation is exactly the same as with reference to the election of members of the legislature. Under the present system the Federal Government does not interfere with the election of members of the legislature; it does not interfere with the manner of the election of the electors; but you propose now to change the system of electing Senators from an election by the legislature to a vote by the people. If you proposed the same change in respect to the election of President by a direct vote of the people, instead of through the instrumentality of electors, you would be confronted with the same question as in the case of Senators.

Mr. BACON. Mr. President, if the Senator will pardon me—

Mr. SUTHERLAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Minnesota yield, and to whom?

Mr. NELSON. I will be glad to yield to both Senators.

Mr. BACON. I wish only to answer what the Senator said in reply to what I said, if the Senator from Utah will pardon me.

Mr. SUTHERLAND. Will the Senator permit me to supplement what I said with a few words? It will take only a moment.

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Utah?

Mr. NELSON. Certainly.

Mr. SUTHERLAND. I call the attention of the Senator from Minnesota to the further fact that under the Constitution Congress is given the power to regulate the manner in which the members of the legislature shall discharge their duty. They become the electors of the Senators. But the Constitution with reference to the electors of the President retains the provisions as to the manner in which those electors shall discharge their duty. So the Constitution amply provides for regulating the manner in which the ultimate electors for Representatives, Senators, and the President shall be elected. It carries the same scheme all the way through.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Idaho?

Mr. NELSON. Certainly.

Mr. BORAH. The manner of selecting the electors in the first instance is under the control of the State legislature.

Mr. SUTHERLAND. Precisely. It is under the control of the State, under the control of the legislature, just as the election of members of the legislature is under the control of the State, or under the control of the legislature, which acts for the State in such a matter. But the thing I am calling attention to is that the Constitution itself provides ample power for the Federal Government regulating the manner in which the electors of these various officers shall discharge their duty. In the case of the Representatives it is the people who elect; they are the electors. So Congress regulates the manner in which they shall discharge their duty. In the case of Senators it is the legislature who constitute the electors, and Congress may regulate the manner in which they shall discharge their duty. In the case of the President it is the electors provided for in the Constitution who elect the President, and the Constitution itself regulates the manner in which those electors shall discharge their duty.

Mr. BACON. Mr. President, if the Senator will permit me, I do not think any of us are entirely ignorant or uninformed as to what the law now is as to how a member of the legislature is elected or how a presidential elector is elected, but the question that I wanted to hear answered from my distinguished friend from Minnesota [Mr. NELSON] was this: The proposition now is to change the constitutional provision with reference to the manner of the election of a Senator so as to vest it in the people direct, to be voted for by them, and the contention of the Senator is that if vested in the people it would be unsafe to let the people exercise that right in any other way than they now exercise it in the case of a Representative. That is the contention of the Senator, and he argues that with great earnestness and force.

The Senator has said that we have had 15 amendments to the Constitution in the formal way; that we have got 2 others which were informal, but are practically as binding as if they had been thus formally enacted, adopted, and ratified; and one of them that, whereas under the Constitution electors were to be elected, and they were to exercise the free choice in the selection of some one as a President, yet by the unwritten amendment, which is universally recognized and as much in force as if it had been formally adopted, that has been done away with, and now, by the universal consent of the people to this unwritten amendment, the President of the United States is practically elected by direct vote of the people in each State, under which unwritten amendment there is no possibility of the Federal Government exercising any influence or any control as to the manner in which that direct vote shall be cast. Now, the question that I ask the Senator is this: If under the unwritten amendment, which is thus of force and thus universally recognized, it is safe for the electors to go to the ballot box and vote without Federal supervision, why is it necessary, if we make a similar change in a written and formal amendment as to the election of Senators, that there should be that Federal control and supervision? Why in the one case any more than in the other?

Mr. NELSON. Mr. President, I find it difficult to comprehend the drift of the Senator's question. The same argument applies to this proposition to transfer the election of Senators from the legislatures to the people. As a matter of fact, in the Senator's own State—I think by the primary law—the people have assumed that right, and determine at popular elections who is to be the Senator, and the members of the legislature

adhere to that choice. It is the same in many other States. But now it is proposed to ratify that power and to change the mode of electing Senators by the State legislatures to a direct vote of the people.

The Constitution puts the election of presidential electors on a parity with the election of members of the legislature—that is, it leaves the States to prescribe the manner in which a member of the legislature and a presidential elector shall be elected or appointed; but when so elected or appointed that presidential elector exercises his function conformably to the Constitution and laws of the United States which prescribes the time not only when he is to be chosen but the time when he casts his vote. We have a federal statute, supplementing the Constitution, prescribing the manner in which these electors shall cast their votes. They meet at their State capitals and vote by ballot. A record is kept and that record is certified and sent here to the President of the Senate. That is covered by the twelfth amendment to the Constitution. I call the attention of the Senator from Georgia to Article XII of the amendments to the Constitution. That article reads:

The electors shall meet in their respective States and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

That prescribes the whole *modus operandi*; it lays down the entire rule and regulation in respect to this matter, except the mere election of the electors, and that is left to the State, as it is in the case of the members of the legislature. There is no analogy in the point the Senator put between this case and the case of the election of a Senator by the popular vote of the people.

Mr. BACON. Mr. President, if the Senator will permit me, I will ask him the question in a little different shape. According to the statement of the Senator—and a very correct statement—there has been an unwritten amendment of the Constitution agreed to by the people of the United States, under which the people in each State now, in practical effect, vote directly for President, and the electors are the mere conduit pipes to bring that vote here to be counted. That system has been in operation ever since he and I can recollect; it has been practically the law of this land for over a half a century, as much so as if it were written in the Constitution. Now, I want to ask the Senator this question: Suppose it should be deemed important, not simply to have it an unwritten law, but to frame an amendment to the Constitution which would do away with the electors and give the people of each State the right to vote directly for President in that State, would the Senator deem it absolutely essential to prescribe in that case that Congress shall have the right of supervision over those who cast the votes at that election?

Mr. NELSON. That question has not arisen and is not involved in this case. Different conditions might prevail in reference to the election of a President.

Mr. BACON. Well, I want to know if the Senator is satisfied with the electoral conditions as they now exist in the election of President of the United States?

Mr. NELSON. I am quite content with conditions as they now exist.

Mr. BACON. As to the election of President of the United States?

Mr. NELSON. Yes.

Mr. BACON. Very well; now, if the proposition—

Mr. NELSON. What I meant by my statement in reference to the election of President was, that though still operating through the form of presidential electors, in the matter of the election of President, the people have nevertheless to a large extent taken the bit into their own mouths, and really exercise a direct influence on the subject.

Mr. BACON. Yes.

Mr. NELSON. Just as they do in the matter of the election of Senators. I called that an unwritten amendment, though perhaps not accurately.

Mr. BACON. Yes; I think quite accurately; and under that unwritten amendment the people are now electing a President of the United States practically by direct vote of the people, with no power in Congress to supervise that election.

Mr. NELSON. There is no proposition to change the Constitution in that respect. When such proposition comes before the Senate, if I am a Member of it, and it is accompanied with

a proposition to divest the Federal Government of all control in respect to the election of President, I will be ready to meet that question, but it is not before us in the joint resolution which is now pending before the Senate.

Mr. HEYBURN. Mr. President, I rise merely to call attention to a fact which some Senators seem to me to have overlooked, a provision in the Constitution which distinctly gives to Congress the power to regulate the election of electors, and that is the second paragraph of the fourteenth amendment. It gives Congress the power to enforce the right of the citizens of the United States to vote for presidential electors according to law and in express terms. That is an element of control that is as far-reaching as any other provision in the Constitution respecting the right of Congress to prescribe the qualifications of the voter for electors. It fixes the penalty; it provides that no State shall deprive the qualified voters of the right to vote for electors. The fact that it is not involved in the consideration of this joint resolution does not militate against its force as an argument that the Constitution has given to Congress the right to exercise a prescribed power. It says that no State shall prevent a citizen possessing the qualifications enumerated in section 2 of the fourteenth amendment from an equal right to participate in the election of presidential electors and members of the legislature. See how far that may go and to what extent Congress may exercise power under that amendment. That is the equivalent of the exercise of the power involved in the joint resolution under consideration. It prescribes a penalty, not optional, but arbitrary. I have been listening for some Senator to call attention to it, but it has not been done, and I merely wished to refer to it, not desiring further, unless necessary, to participate in the discussion of the question.

Mr. NELSON. The Senator is apparently correct. The provisions of the twelfth amendment—

Mr. HEYBURN. Section 2 of the fourteenth amendment.

Mr. NELSON. The twelfth amendment and the provision to which the Senator refers, section 2 of Article XIV—

Mr. HEYBURN. They are to be read together.

Mr. NELSON. They are to read together; and they clearly give the Federal Government the control over the election of electors.

Mr. HEYBURN. The General Government could declare an election void under its general power. While the penalty prescribed refers only to the representation in Congress, yet it recognizes the right of Congress to enforce its own laws.

Mr. NELSON. While all that is true, Mr. President, the discussion has proceeded recently on what might be termed academic lines. It has had reference to what would be the status of the case in respect to the election of a President and what we ought to do in that case. The Senator from Idaho [Mr. HEYBURN] has stated that proposition clearly. Taking the three provisions of the Constitution together—and I have quoted those provisions—the provisions of Article II of the Constitution, relating to the election of the President, the provisions of the twelfth amendment, and the provisions of the second section of the fourteenth amendment, these constitutional provisions all combined give the Federal Government as complete control over the election of the electors as it now has over the election of Representatives and Senators.

Mr. HEYBURN. Mr. President, if the Senator will permit me—

Mr. NELSON. I will yield the floor to the Senator.

Mr. HEYBURN. I should like, while the Senator has the floor, to make this suggestion as carrying the principle into the question under consideration: It is provided in express terms in the same amendment and in the same section that the Congress can have the same supervision over the election of members of the legislature in a State. The hand of Congress may reach down as far as the legislature to enforce a fair election.

Mr. NELSON. There is no doubt about that.

Mr. HEYBURN. I state the two propositions, because I want the right to apply as an answer to the question in regard to presidential electors, and I want the second to apply to the question of United States Senators, because the reason of the amendment was to protect the purity and the fairness of elections for members of the legislature, not because of the duties they had to perform in the State, but because of the duty that they had to perform in electing United States Senators.

Mr. NELSON. Mr. President, the same rule—and I am greatly obliged to the Senator from Idaho who has made the matter perfectly clear, much clearer than I could have done—the same rule applies practically to the election of presidential electors as to the election of members of the legislature.

Mr. HEYBURN. And incidentally to the election of Senators.

Mr. NELSON. It is under the fourteenth amendment and the other provisions of the Constitution which I have quoted

that the Congress of the United States still has the ultimate regulative power. Mr. President, I have already occupied much more time than I intended at the outset, but this has been largely owing to the many most instructive and suggestive questions that have been from time to time propounded to me. I will conclude by again stating that while I am heartily in favor of amending the Constitution so as to provide for the election of United States Senators by a direct vote of the people, I am unwilling to have the granting of such an amendment coupled with the condition that the Federal Government shall relinquish all control over Federal elections, and shall be bound hand and foot and be placed at the mercy of the State legislatures. I would not want the members of the State legislatures in the matter of their election subject to the control of the Federal Government; neither do I want the legislative department of the Federal Government, or any branch of it, subordinated to the exclusive regulation and control of the legislatures of the States. The legislative department of each government—Federal and State—should be left entirely free and independent within its own orbit. This is the vital principle of our dual system of government, and the maintenance of this principle is essential to our continued existence and prosperity as a Nation. The people are as anxious to maintain the integrity of the National Government as their State governments, and they have no desire to place the National Legislature at the mercy of the State legislatures. I append a copy of the joint resolution to my remarks:

Joint resolution proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein): That in lieu of the first paragraph of section 3 of Article I of the Constitution of the United States, and in lieu of so much of paragraph 2 of the same section as relates to the filling of vacancies, and in lieu of all of paragraph 1 of section 4 of said Article I, in so far as the same relates to any authority in Congress to make or alter regulations as to the times or manner of holding elections for Senators, the following be proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States:

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

The times, places, and manner of holding elections for Senators shall be as prescribed in each State by the legislature thereof.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election, as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah [Mr. SUTHERLAND], on which the yeas and nays have been ordered.

Mr. HEYBURN. I had understood that the Senator from North Dakota [Mr. McCUMBER] desired to speak at this time. We are not yet ready for the yeas and nays on this matter.

Mr. BORAH. Mr. President, we will either have the yeas and nays or somebody will speak.

Mr. HEYBURN. Mr. President, that is one of those statements that perhaps had not been thought over before making.

Mr. BORAH. No, sir; I have thought it over carefully.

Mr. CARTER. Mr. President—

Mr. HEYBURN. I have the floor.

The PRESIDING OFFICER. The senior Senator from Idaho is entitled to the floor. Does he yield to the Senator from Montana?

Mr. CARTER. I ask if the Senator will permit me an interruption?

Mr. HEYBURN. Certainly.

Mr. CARTER. I think it is quite clear that a vote can not be reached between now and the hour of 2.30, when a special order will obtain, yet it is desirable that a vote be taken on the pending amendment at some time of which Senators will be advised somewhat in advance. I therefore suggest to the Senator from Idaho [Mr. BORAH], in charge of the joint resolution, inasmuch as the time is well disposed of for to-morrow and the day following, that he now ask—or, if he does not care to make the request, I will prefer the request—that a vote be taken on the Sutherland amendment at, say, 4 o'clock on Thursday afternoon. I present that with the permission of the Senator.

Mr. BORAH. Mr. President, I prefer that the Senator from Montana would permit those in charge of the joint resolution to make these suggestions.

Mr. CARTER. I suggested to the Senator that he prefer the request; or, if not, that I would be glad to prefer it. I withdraw the request for unanimous consent, Mr. President.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the senior Senator from Idaho yield to his colleague?

Mr. HEYBURN. Yes; for a limited purpose.

Mr. BORAH. Mr. President, I desire to proceed with this matter at all times when we can proceed with it when we are not disposing of other business which has precedence. I think we can dispose of this subject to-morrow after the other matters of which notice has been given for the day have been disposed of. For that reason I do not think it is proper that we should delay a vote until Thursday. There is a vast amount of other business that ought to be attended to, and if we could dispose of the pending joint resolution a day previous to that we ought to do so.

Mr. CARTER. Very well, Mr. President, I have withdrawn the request.

Mr. HEYBURN. Mr. President, inasmuch as there seems to be nothing before the Senate except the senior Senator from Idaho, no suggestion having been made by the junior Senator from Idaho [Mr. BORAH] except that it might be well to do something, we shall have to proceed with the consideration of this measure. I do not know whether my colleague desires to ask for unanimous consent or not.

Mr. BORAH. I wish to proceed to a vote if there is no one who desires to discuss the question. If there is anyone who wishes legitimately to discuss it who has not had an opportunity to do so and will say so, then another consideration arises.

Mr. HEYBURN. Mr. President, that implies that a Senator must have the permission or approval of the junior Senator from Idaho. While we are considering a proposed amendment to the Constitution of the United States, I do not think there is any proposition before the Senate to amend the rules of this body. I have not heard it mentioned.

Mr. President, this great question is being rushed along as though it were a proposition before a township meeting, and one in which only the present generation or the existing officeholders were interested. The generations that have gone before us may not be interested in it, but the generations that live to-day and those that are to live hereafter have a vital interest in it. We are bound to consider it from the standpoint of to-day and to-morrow and forever, because when the Constitution is changed we can not contemplate that it will be changed again or returned to the existing status. So that it becomes a matter of such grave import that I am not at all deterred from occupying the time of this body by the urgency of haste.

The days of the week and the weeks and the months of the year have no terror for me. There is no measure pending of equal importance. If we are going to begin undermining the fundamental law of the land by adopting the joint resolution under consideration to-morrow, the suggestion made by the Senator from Georgia [Mr. BACON] in regard to presidential electors will probably be before us, and on another day other proposals of change will confront us or those who follow us, and the error of to-day, should we commit an error, will be cited in justification of the proposed changes.

Whenever you make it easy to change the Constitution, whenever the country is educated to the belief that it is a matter of minor importance, then the whole Constitution is in danger. You will next be confronted with the proposition that about seven States have already made, that we call a constitutional convention and open the door for the reconsideration of the wisdom of our fathers and the experience of a century and a quarter. That will be the next. That is the question of the hour.

We are being admonished that the States have demanded that the change be made. Well, the States have no right to make a demand except in the manner prescribed by the Constitution. A Senate that would assume to act upon an irregular or an unauthorized demand for a change in the Constitution would be unworthy to exist. Article V of the Constitution, that prescribes the manner in which the Constitution shall be amended, is the absolute rule of action that can not be varied from. If we were to vary from it in the interest of convenience we would be untrue to our oaths of office and unworthy to sit as Members of this body. When that article says that Congress, upon the request of a certain number of States, shall call a constitutional convention, that is what it means, and it does not authorize action in any other direction than that named in the Constitution. When the Constitution says that Congress may of its own motion submit an amendment to the Constitution to the legislatures of the States, it does not mean that Congress may call a constitutional convention. There is no

more important question than that of keeping these two paths marked out for us utterly and absolutely distinct. You can not merge them. One of them has nothing to do with the other.

When a constitutional convention is called the result of such a convention is submitted to the people and not to the legislatures. When Congress submits an amendment, it goes to the legislatures and not to the people.

Mr. President, a few days since I called attention to the question that was before the Senate, and we, just as a court in the trial of a case, must keep the real question before us, because our responsibility is as to that issue and no other. It would be difficult to tell sometimes for those who might be listening to this debate whether we were going to amend the Constitution by a vote of the people or whether we were going to amend it by a vote of the legislatures of the States. You can not confuse them; they are distinct, just as distinct as the first and the fifteenth or any other two amendments to the Constitution.

I have no sympathy with this plea for haste. I am not in a hurry to amend the Constitution of the United States, and the people have not been in a hurry and are not to-day. I mean the thinking conservative people of the United States. I do not mean the handful of people who gather on the street corner and who have in view some gain that may come to them by amending this great Charter. I do not refer to the 112 or the 120 men who may be elected to a legislature. Their views are worth no more than are those of an equal number of men who are not elected to a legislature upon the action of the Senate in sending down to them a proposal to amend the Constitution of the United States. They are merely individuals in the legislature except when they act in pursuance of the provisions and powers which the Constitution makes on their behalf.

Do the people of the United States want to amend the Constitution on their own responsibility or do they want to amend it on the responsibility of the Congress of the United States and the legislatures? One of the grounds most seriously insisted on is that the legislature is not a fit tribunal to elect Senators and therefore that the duty should be vested in the people who make the legislatures—that is one of the arguments—that the legislatures are not fit; that they are not to be trusted; and yet you propose to intrust them with passing upon the work proposed to be done under this joint resolution. Are they better equipped, more to be trusted, in determining whether or not they will amend the Constitution than they are to be trusted in selecting a Senator? There is not in the lifetime of any legislature a duty of responsibility equal to that of passing upon an amendment to the Constitution.

Mr. President, no legislature in the United States has been called upon to exercise so high a duty in half a century, and none had been called upon to exercise so high or responsible a duty in the 50 years that preceded that period. The amendments that were submitted at the close of the war were amendments deemed in that hour to be absolutely necessary in the light of new conditions that had come about. They were not amendments intended to enable juggling over a seat in this body to be made easy or more convenient. They were amendments that in that evil hour seemed to the people necessary as a basis of the reorganization of the disrupted conditions that followed the war.

What is wrong with the method of selecting Senators? Upon what does this imaginary cry of the people rest? I asked the other day why the Constitution should be amended, because no one had been considering or discussing that feature of the question. They seemed to take it for granted that the Constitution should be amended and amended at once, but they gave no reason based upon the result of the present system or the present provisions of the Constitution. Did any Senator tell you that it was because the legislatures had proven themselves incompetent? Has any Senator suggested that under the existing provisions of the Constitution the standard of the Senate of the United States individually and collectively has been lower than it should be? Has anyone suggested that you would purify the Members of this body and the body itself of any evil that was pointed out?

I want to know the reason when I am asked to do an extraordinary thing. There is no presumption in favor of extraordinary action either by an individual or in any walk of life. The wise man, the conservative man, always wants to know, when he is asked to do an unusual thing, why "upon what do you base this request for a change," even in the slighter affairs of life? Is it not much more important that in great measures of this kind some reasons for the change should be given?

They have been fighting here for days and weeks trying to prove that it would do no harm. Are we to change the Constitution because it would not do any harm to change it? No, Mr.

President, that rule must not be applied. It should not be applied in legislation which is only temporary in its character and application. We should not pass a law because it can do no harm. We should only enact a law because it carries with it new and better conditions than the existing law.

I do not charge inattention on the part of Senators when I suggest that they have devoted their time entirely to seeing how tolerable would be the condition should the change be made. I invoke the spirit that actuated Webster when he said, "I have not leaned over to look into the future to see how tolerable would be a condition" then under consideration. I am not looking into the future to see whether or not the Government could stand the strain. I am looking for a reason in this hour and this moment for entering upon the change, and I have not heard any reason given. Is it ambition that some one should want to be known hereafter as the man who changed the Constitution of the United States or amended it? Is it ambition that some man or some men have failed under the system that has stood the test of a century to obtain that which he wanted and, failing to get it, seeks to brush away the barrier that stood between him and his ambition? Is that it?

These are pertinent questions, and they are questions that will have to be answered to the people; and when I speak of the people I do not mean these coteries that stand for any change that may be convenient to them.

When the legislatures have demanded that a constitutional convention should be called, it has at different times grown from a different inspiration. When the Supreme Court of the United States has held, in the exercise of its equity jurisdiction, that certain combinations of men could not trample upon the rights of other men because of the constitutional protection for life and property, those people have demanded that the Constitution be changed; but was their demand based upon any principle that would receive the sanction of a Senator on this floor—that the Constitution should be changed so that they might trample upon the rights of other men under the law? That is not a reason.

When the Supreme Court of the United States has held in other cases—and I need not enumerate them—that the people could only go so far in the pursuit of their fancies, then those people have demanded that the Constitution be changed. It will be an evil hour, Mr. President, when the Constitution of the United States is changed in times of peace, prosperity, and average happiness. It should be changed only upon such an urgent demand as affects the prosperity of the people, their happiness in their homes. What condition exists in the homes to-day affecting the happiness and prosperity of the people that would be improved by the amendment of the Constitution? What is the condition confronting the people that would be affected, and I mean the condition of life, liberty, and the pursuit of happiness? How would those conditions be improved by changing the manner of electing the Senators of the United States from the people's chosen and selected representatives?

I am looking for a reason. I am taking the personal responsibility of trying to find one from an analysis of existing conditions. I have had none suggested to me. So I have started out on a personal investigation of this question to see whether or not the health or the happiness of the people, either individually or in total, would be improved—not affected, but improved—by the adoption of this joint resolution.

If it was a controversy over the enactment of a statute, if we did not like it, if it did not work well, we could repeal it at some other session of the Congress; but we are undertaking a permanent change that is not subject to repeal except by the same power that makes it. Does it recommend this joint resolution to your judgment that might be changed again in order to improve it, or to revert to existing conditions?

Does that recommend to your minds a suggestion to change the Constitution of the United States?

Mr. President, it was this Constitution as it is to which we pledged our faith and our conscience when we stood up to take the oath of office. It was this Constitution to which we have devoted our duty and our services. The question has never been before the American people in such form that they could express their opinion upon it. No sufficient number of States have requested that it be changed by either method. About 17 States have asked for a constitutional convention—perhaps more. Not to exceed seven States have asked that Congress submit amendments—asking it without authority. When the law says that upon a petition of 20 citizens a certain thing may be done, it is no more proper to do it upon the petition of 19 than it is upon the petition of 2. When the Constitution says that amendments may be submitted upon the request of two-

thirds of the States, acting through their legislatures, one less than two-thirds does not constitute a petition of which we can take notice. There is no rule of "pretty near" in this matter. The Constitution fixed it on arbitrary lines, and we are bound to respect them. The Senate that would submit this to a constitutional convention on one less than the number required by the Constitution would perform an illegal act, in violation of the Constitution.

We are not acting, and we have no right to claim as a basis of our action anything by virtue of the requests of men who happen to be members of the legislatures to-day and who will perhaps not be members of the legislature to-morrow. We have no right to regard their petition other than as a petition of individuals, not as a legislature or as members of a legislature. A citizen of the United States, whether he has taken an official oath or otherwise, if he has enjoyed the rights of citizenship, is bound to uphold and defend the Constitution with his life, if necessary—in his official position if he holds one; in the walks of private life, if he acts the part of a citizen there.

I wonder if any Senator thinks this question has been thoroughly discussed or that the consideration of this joint resolution has been exhausted. If he does, he never was more mistaken in his life. If you were to send this joint resolution or the result of it to the legislatures of the States, to those bodies which you would have us believe are incompetent to perform the constitutional duty invested in them, what result would you get? Do you think they would divest themselves of that high prerogative with which the Constitution invests them and refer it to unorganized government—transfer the responsible action of the members of the legislative body of the State, chosen by the people, to the ward politician? Is the selection of a Senator safer in the hands of those who at the polls in the hundreds of thousands of places in the United States would act separately, without any preparation of mind, to elect a Senator? Do you suppose that the average voter is better equipped to perform this duty than his selected representative?

Suppose, for instance, there were a charge of bribery against a Senator who appeared at the door of this Chamber to take his seat, and we were to refer the matter to the Committee on Privileges and Elections, and that committee were to start out to investigate charges of bribery in a dozen or more States in the Union, any one of which charges being sustained would deprive the Member of his seat. What kind of an experience would they face? Instead of investigating the conduct of 100 or 200 men, they would have to investigate the conduct of a hundred thousand or more men. They would then have to determine whether or not this or that poll list was pure.

I have in my mind a case of which I read yesterday, where a ballot box—I believe two ballot boxes—within a short distance from Washington, disappeared, so that there could be no recount. I read that within 24 hours. Suppose the election of a Senator was involved and the result depended upon the count of the ballots in those stolen or destroyed ballot boxes; what kind of a condition would you face? One preferable to that of to-day? I hardly think so.

Out of 1,200 men—and I use the round figures—who have been elected as Members of this body you have found that in 7 cases there was corruption in their election.

Mr. President, you can not find a better record than that in any business body or political body in this country. It is in some sections and by some people fashionable to charge the man with whom they differ with being corrupt, making irresponsible charges of fraud which they are seldom able to justify.

Mr. President, the consideration of the Sutherland amendment is of the first importance, but it has been pretty thoroughly discussed. I have directed my remarks against the whole principle involved. The Sutherland amendment is an amendment to the joint resolution, but not to the Constitution. There is some objection urged to the Sutherland amendment, which is the equivalent of supporting a proposition to amend the Constitution as represented by the Sutherland amendment. But I have not given myself much trouble over the Sutherland amendment. I shall vote for it, because that is a vote not to disturb section 4 of Article I, and inasmuch as I am opposed to disturbing the Constitution at all, I shall, in order to be consistent, vote for that amendment.

Mr. MARTIN. Mr. President, if agreeable to the Senator from Idaho—

Mr. HEYBURN. If I may yield under the rule, I personally have no objection.

Mr. GALLINGER (to Mr. HEYBURN). There is a special order.

Mr. HEYBURN. I thought that was later. I cheerfully yield, if it is half past 2 o'clock.

MEMORIAL ADDRESSES ON THE LATE SENATORS DANIEL AND M'ENERY.

Mr. MARTIN. Mr. President, I send to the desk the following resolutions, which I ask may be adopted by the Senate.

The VICE PRESIDENT. The Senator from Virginia submits the following resolutions, which will be read.

The resolutions (S. Res. 359) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow of the death of the Hon. JOHN WARWICK DANIEL, late a Senator from the State of Virginia.

Resolved, That as a mark of respect to the memory of the deceased the business of the Senate be now suspended to enable his associates to pay proper tribute to his high character and distinguished public services.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Mr. MARTIN. Mr. President, the duty that now devolves upon me to speak of the life and character of JOHN WARWICK DANIEL, late my colleague in this body as a Senator from the State of Virginia, is one the performance of which is attended with mingled emotions.

It is with unfeigned pleasure that I add, to those which will be so much more fittingly expressed by others on this floor, my own humble tribute of admiration, affection, respect, and reverence for the memory of one who was an exemplar of all that is highest, noblest, and best in a manhood devoted to its country's service. And I confess to a frank and conscious pride in the privilege that is mine to speak of him in terms of an intimate relationship, based not only upon our joint service here for many years, nor merely upon our political association, but also upon a lifelong personal friendship. But these emotions are well-nigh swallowed up in a feeling of personal sorrow and loss that is yet too fresh and poignant to admit of my speaking unmoved of the man whom I devotedly loved and whose affectionate friendship I cherish in memory as one of the truest and closest that my life has known.

One can but experience a keen satisfaction in the contemplation of a life that has been rich in accomplishment, blameless in conduct, crowded with deserved honors, and blessed with that crowning glory of a great career—the devoted love of a faithful people. And this satisfaction may be shared by all whose thoughts at this hour are turned upon the career of JOHN W. DANIEL, for such a life was his in all its fullness.

It was rich in accomplishment, indeed. As a youthful soldier he contributed no little to the glory and renown of the incomparable army in which he served. As a lawyer he adorned his profession and by his learning and ability shed an added luster upon it. As an author he gave to the profession legal textbooks which brought him international fame. As a scholar his attainments were rewarded by the degree of doctor of laws conferred upon him by two great universities. As an orator he has charmed, delighted, and instructed thousands by his eloquence and has left to posterity a rich legacy of splendid orations which are destined to live among the finest known to our language. As a Senator his wisdom in counsel, his power in debate, his great knowledge of public affairs, his experience in legislation, and deep study of economics gave him high rank among the broad-minded statesmen of his time; and his conduct and example in the high office of Senator has exerted an influence upon this body that will be felt, for the country's good, for years that are yet to come.

His life was as upright and blameless in conduct as it was rich in achievement. For more than a generation he stood forth in the full glare that shines about the man in exalted public office; and through all those years not a gleam fell upon him that was not reflected in undimmed purity from his untarnished soul. He waged many political battles, he took part in many professional conflicts of great importance, he has filled many offices of public and private trust, and yet he so bore himself amidst the many temptations which must have surrounded him, as they do every man, that when he finally lay cold in death no man could point to one dishonest deed or to a single act of his life born of an unworthy motive. In all my experience of men in public or private life I never knew one whose patriotism was more exalted, whose devotion to public service was more unselfish, whose loyalty was more unswerving, or whose integrity was more unimpeachable.

It is not always true that the most capable and deserving in this world receive the rewards and honors that are commensurate with their abilities and their deserts. Too often does it happen that self-assertion and demagogism win—for a time, at least—the outward tokens of a people's regard as well as the substantial fruits of their favor. But it is pleasing to record that JOHN W. DANIEL's life was filled with honors graciously bestowed; that he measured up in fullest stature to their every

demand upon him, and yet bore them all with that unassuming modesty that was an essential part of his noble nature.

He was but little more than a boy—still in his twenties—when he was elected to the House of Delegates of the General Assembly of Virginia. From that day, back in 1869, down to the year of his death, when he was for the fifth time elected to a seat in this body, he was the recipient of almost every mark of favor and distinction that his people could confer upon him.

If there is any one feature of Senator DANIEL's career which, more than all others, distinguished it and set it apart, it was the personal love and affection with which he was regarded by his whole people. He was known and admired by the whole United States, in the South he was loved and revered, but Virginia adored him.

He was known in every section of her broad domain. High and low, rich and poor, white and black, they all knew his face. They had heard his voice and clasped his hand. They recognized his familiar crutch and never forgot the occasion for its use. Many of them had slept with him upon the field of battle and touched his elbow as they marched into a common danger, and they knew he had never flinched nor failed. They had given him their trust and he had never betrayed them. They had sat enthralled under his matchless eloquence and had learned anew their glorious traditions and even more glorious history. They had seen him disdain the proffered bribe of self-interest and cast his lot with them and their poverty that, in sharing it, he might the better serve them. They knew him for what he was; and no man in the history of that great State, save only the peerless Lee, has ever been so beloved or more sincerely mourned than this her favorite son who has so recently gone to rest.

ANCESTRY AND BIRTH.

They that on glorious ancestors enlarge
Produce their debt instead of their discharge.

But JOHN W. DANIEL's life presents so complete a quittance of every debt to birth and breeding that one may without danger of detracting from the son recall the distinctions of the sires.

JOHN WARWICK DANIEL was born in the city of Lynchburg, Va., on September 5, 1842. He came of a distinguished lineage, and one may find in the lives of his progenitors the promise of his own illustrious career.

His grandfather, William Daniel, sr., was a man of the highest order of intellect, a lawyer of signal ability and one of the ablest judges of his day in Virginia. He was a member of the two famous legislatures of 1798 and 1799 of that State. In the latter he was an associate of James Madison, who alone of all that distinguished company could be regarded as his superior. His great speech in the legislature of 1798 in advocacy of the renowned "Resolutions," which had been prepared by Mr. Madison on the subject of the "Alien and Sedition Laws," was perhaps the ablest delivered by any member on that side of the great debate.

For many years he was a judge of the circuit court of the State, and as such was a member of the general court as it existed prior to 1851. This court exercised final appellate jurisdiction in criminal cases, and the opinions of Judge Daniel, delivered from its bench, are noted for their lucidity and vigor, some of them being "leading cases" in Virginia, yet quoted with assurance by the present day practitioner. As a man he was rugged and strong in character, of great dignity, possessed of the judicial temperament in a marked degree, and of the most incorruptible integrity.

Peter V. Daniel, at one time a Judge of the Supreme Court of the United States, was a kinsman of Senator DANIEL, as was John M. Daniel, one of the most brilliant journalists of the South, and Briscoe B. Baldwin, a judge of the supreme court of appeals of Virginia.

William Daniel, jr., the father of JOHN W. DANIEL, was one of the ablest lawyers and most distinguished judges that Virginia has produced. He was a cultivated scholar and a most eloquent speaker, being one of the most effective advocates in the State. While yet under 25, the required age for membership in that body, he was, in 1831, elected to the house of delegates, the lower branch of the General Assembly of Virginia. He became of the requisite age, however, before his term of actual service began, and was admitted to his seat, to which he was three times consecutively reelected.

His professional attainments and high character won for him, in 1846, an election to the supreme court of appeals, Virginia's court of last resort. There he served with great distinction until 1865, when the organized government of the State was displaced by that known as the Alexandria government, which had been recognized by Congress. This period of Virginia's judicial history is, perhaps, her brightest; and Judge DANIEL's opinions contributed no little to the high regard in

which the court was held by the profession, not only in Virginia, but in other States as well.

The mother of JOHN W. DANIEL was Sarah Anne (Warwick) Daniel, the daughter of John M. Warwick, Esq., a successful merchant, of Lynchburg, and one of her leading citizens. She was noted for her beauty of character as well as of person, and was accomplished in all the graces of the sweet womanhood of that period. She died at the early age of 24, and JOHN W. DANIEL, who was but a child, and his infant sister were taken into the home of his maternal grandfather, where he was surrounded by all that was highest and best in the delightful homes of the old South, and where he grew into sturdy boyhood.

Perhaps no one person exercised a more marked influence upon his life than did this grandfather, John M. Warwick, for whom he entertained not only the warmest affection but also the greatest admiration and respect, and to whom he paid this beautiful tribute:

A nobler man never lived, hospitable, gentle, calm, self-poised, self-contained—a gentleman in honor, in manners, and in innate refinement. A pure and lofty soul, * * * he seemed to me everything that a man could be to be respected and loved. Successful from his youth in business, with a mercantile "touch of gold," he was rich and generous without pretension or pride; and when the end of the war prostrated his fortune, and he became old and almost blind, his easy dignity lost no feature of its serene composure, and out of his true heart came no cry of pain or complaint of man or fortune. * * * He accepted the dread issue of Appomattox without a murmur, and took the fate of his people with all the fortitude and manliness, and with none of the show, of the Roman senators who saw the barbarians enter Rome.

Truly, JOHN W. DANIEL was fortunate in having such a character to preside so intimately over his life during its impressionable and formative youth, and as a companion and example for his young manhood.

MILITARY SERVICE.

At the age of 18, and still remembered as the very ideal of youthful beauty and chivalry, young DANIEL was in attendance upon Dr. Gessner Harrison's noted preparatory school, in Nelson County, Va., when the Civil War began. He did not hesitate a moment in deciding upon his course, but immediately withdrew from school and returned to his home. There he enlisted as a private in Company B, Second Virginia Cavalry, known as the "Wise Troop," which was organized in the city of Lynchburg. For several weeks this troop remained in Lynchburg, completing its organization and preparing for service in the field. Before it was ordered to the front, however, he was commissioned by Gov. Letcher as second lieutenant in the Provisional Army of Virginia, and he was assigned to Company C, Twenty-seventh Virginia Infantry, a regiment in what soon became known as Jackson's famous "Stonewall Brigade."

He received his commission on May 8, 1861, and immediately reported for duty near Harpers Ferry. On account of his military training, received while attending Lynchburg College, he was assigned to duty as drillmaster and entered actively upon this service.

His "baptism of fire" was received at the first battle of Manassas, July, 1861. In this battle he was struck three times. He received a glancing blow on his head from a fragment of a shell, but was protected by his cap from serious hurt. He was also struck in the breast by a spent bullet, which knocked him to the ground and stunned him, but this time a metal button on his coat preserved him from an actual wound. Later in the fight he was shot in the left hip by one of the New York Zouaves, who was plainly in sight at the time and with whom he had been engaged in a sort of long-distance duel.

The last wound was quite severe, although he was able to walk off the field, using two muskets as crutches. He was carried to his home in Lynchburg, where he was confined to his bed for several weeks with fever attendant upon his wound.

His conduct in this battle was notably gallant. Although he had never been under fire before and was but a mere lad, he displayed the most intrepid spirit and daring courage and fought with all the steadiness of a veteran. In the midst of the battle and during a fierce charge, when the regimental color sergeant fell wounded, young DANIEL sprang to his side, and seizing the fallen standard, bore it aloft and forward until relieved by command. He was commended for gallantry in action by his regimental commander in the report of the battle, and was thus effectively launched upon his military career.

While still recuperating from his wound and before he was able to return to his command the Provisional Army of Virginia was abolished and the young lieutenant, who had deserved, and was confidently expecting, promotion, was without a commission. He was, however, promptly elected by its members to a second lieutenantancy in Company A, Eleventh Virginia Infantry, known as the "Lynchburg Rifle Grays." He immediately reported to that company at Centerville, where it was

encamped, and from thence he wrote his father that, while he had hoped for appointment to a higher rank, upon reflection he thought "a subordinate position attained by the suffrages of daily acquaintances and associates is far more honorable."

As an evidence of this confidence of his associates, which he so highly valued, he was reelected at the expiration of his enlistment in 1862.

During the spring of 1862 he was authorized by the Secretary of War of the Confederate States to raise a company of cavalry for independent service, and succeeded in doing so, being elected to the captaincy of the troop. But the conscription act of the Confederate Congress disbanded all such organizations before this company was mustered in.

It was during this same year that Mr. Benjamin, the Confederate Secretary of War, tendered him a commission as lieutenant of ordnance in the regular army of the Confederacy. This appointment young DANIEL declined because he feared it might cause his assignment to duty elsewhere than upon the actual field of battle. As Maj. DANIEL often said, he wanted a place "on the firing line and in the picture by the flashing of the guns."

Later in 1862 he was commissioned first lieutenant and adjutant of his regiment, Eleventh Virginia Infantry, upon the recommendation of its colonel, David Funston. It was while serving in this capacity that he was wounded in the left hand during the Battle of Boonsboro Mountain, Md., September 14, 1862.

While standing with other officers on the line of battle watching its progress, and while in the act of passing his pistol from one hand to the other in front of his body, a rifle bullet struck his hand, passing through it and flattening itself against the pistol which it grasped. Fortunately it did not break any of the bones of the hand and he took his penknife from his pocket and cut the bullet from the wound himself. This bullet he retained throughout his life as a souvenir of this particular occasion, having caused it to be mounted as a watch charm.

He took part in all the many battles and skirmishes in which this noted regiment was engaged until March, 1863, when he was promoted to the rank of major of cavalry and assistant adjutant general on the general staff of the Confederate Army and assigned to the division under command of Maj. Gen. Jubal A. Early.

This rank and assignment enabled him to come more closely in touch with the actual operations of the Army and the conduct of the war, much to his delight, for he was a born soldier, as well as a student of military science. His many letters to his father and grandfather, written from the field and camp during this period, show a mental grasp of the military situation and a knowledge of men and affairs that was remarkable in one not yet 20 years of age.

Young, handsome, fearless, and bold, and filled with a patriotic fire born of his firm conviction of the right of the cause for which he fought, he was a beau ideal of the Confederate soldiery. No danger daunted him; no task was too exacting, for his was a service of loyalty and love. And, boy though he was, underlying it all was a dignity and self-respect which he never forgot himself nor permitted others to disregard.

Upon one occasion, during the first days of his service upon the staff of Gen. Early, that officer, with unthinking abruptness and with needless peremptoriness, accompanied by an oath, ordered him upon some mission. The young adjutant drew himself to attention, and, looking the old general directly in the eyes, said, "General, when you address me as one gentleman should address another I will obey your orders, but not otherwise." To the credit of Gen. Early, be it said, he was too great a soldier and himself too much a gentleman not to recognize the justice of the rebuke, and, revising the terms of the order, he never again in like manner trenchanted upon the sensibilities of his young subordinate, who became his favorite officer of all his staff.

While serving on the staff of Gen. Early he saw active service in many of the severest battles of the Civil War, including the great Battle of Gettysburg, until he received the final wound which permanently disabled him from military service on May 6, 1864, in the Battle of the Wilderness.

During the progress of this battle and while upon some service for Gen. Early he noted a regiment of troops whose commanding officer had been killed and which had been thrown into confusion and disorder. Realizing the necessity for prompt action, he placed himself at their head and was striving to reorganize them for an advance in the face of a terrific fire when he was struck in the left leg by a minnie ball. He fell from his horse and dragged himself behind a fallen log. Finding his thigh bone shattered and the femoral vein severed, he unwound the silken sash from his waist, and, making a tourniquet above the wound, stanching the flow of blood that had

been dangerously profuse. This presence of mind and slight knowledge of surgery undoubtedly saved his life.

This wound not only disabled him from further military service, but caused him untold agony and pain for many years thereafter and discomfort and distress all the remainder of his life. It was due to this injury that he ever afterwards walked with crutches, being unable to use the wounded member except very cautiously and for short distances.

Immediately that he recovered from this wound sufficiently to move about, and realizing that his cherished ambition for a further military career was at an end, he accepted his condition as the fortune of war and turned himself to other fields. But all during his life he treasured his service in the army of his beloved South as the most precious of all his memories. Other titles were conferred upon him which it was his privilege and right to adopt and use; but he preferred the simple "Major."

After the war when James L. Kemper, the commander of the famous Kemper's brigade, became governor, he appointed Maj. DANIEL upon his staff with the rank of colonel. But the title of "colonel" never stuck to him. And as Maj. DANIEL wrote in a brief autobiographical sketch he once began:

In truth I did not desire that it should. I had won that of "major" in the steadiest army of history, the Army of Northern Virginia. I have always regarded it, and regard it still, as Gen. Early called it, "my most honorable title." By it my comrades of battle know me; and when I die I wish it to be carved on a simple, unostentatious stone above my dust.

Well might he say he had won the title. He had won it by a bravery, a devotion, a dashing gallantry, and an efficiency of service not surpassed by any of his compatriots. And whatever other inscriptions may be carved upon the monuments that will be reared to his memory none will bear to the generations yet to come a higher or nobler message of patriotism, of loyalty, and of duty than the simple legend, "Major in the Army of Northern Virginia."

LAWYER AND AUTHOR.

After the war Maj. DANIEL found himself, like many other young men of the South, with maimed body and shattered fortunes. The environment of wealth that had been his lot had been changed by the blight of war, and he realized that he must make his own fortune and carve out his own future. Deciding upon law as a profession, he entered the law school of the University of Virginia under the great teacher, John B. Minor. He had inherited from his father and grandfather a peculiar adaptability to his chosen profession, and his career as a student at the university convinced all who knew him that he was marked for success at the bar.

He began the practice of his profession in Lynchburg as a partner with his father, which partnership continued until the latter's death in 1873. Being studious by nature, diligent in research, and splendidly grounded in the great principles of the law, his intellectual ability, high character, and power of advocacy soon established his reputation. As his experience widened and his intellect matured he took higher and higher rank in his profession, until few lawyers of the country could be regarded as his equal. His learning, his habits of industry, and his thorough preparation of every case, together with his winning personality and magnificent presence, made him a power before court and jury alike.

For many years he was in full and active practice in the State and Federal courts of Virginia and in the Supreme Court of the United States. He appeared in many of the most important cases before the supreme court of appeals of Virginia, where his briefs were noted for their scholarly style, beauty of diction, logical arrangement, and argumentative force; and where his oral arguments are conceded to be the most masterly ever addressed to that tribunal.

Although his public duties became more and more exacting as he grew older in the public service, he never lost his love for his profession and never withdrew entirely from its practice. For a number of years before his death he maintained a partnership with his son and his son-in-law and continued to the end to give personal attention to the more important business of the firm.

Within three years from his admission to the bar he issued his first legal textbook, *Daniel on Attachments*. This work, designed for use particularly in the States of Virginia and West Virginia, was published in 1869, met with immediate success, and has ever since been regarded as a standard authority by the courts and bar of both of these States.

His splendid treatise on "negotiable instruments" is the work by which he is best known to the profession generally, and is his legal masterpiece. He had this work under preparation during eight years, and, in the midst of the countless demands upon his time and energies, spent long periods in the law libra-

ries at Richmond, Baltimore, and New York, where he could have convenient access to original authorities.

The work first appeared in 1876, was at once recognized as the leading authority on the subject, and has ever since been regarded as a standard and a classic in all the courts of the English-speaking countries. His old law instructor, John B. Minor, one of the greatest, if not the greatest, law teacher of this country, and himself an author of a monumental legal work, once said with obvious pride:

Upon the subject of negotiable instruments I bow my head to JOHN W. DANIEL, my pupil.

His publishers, when the work was first in press, asked him in surprise how it happened that a "provincial lawyer" from a small town could have produced so excellent and exhaustive a treatise. He replied with his usual modesty that it was, perhaps, because he was a provincial lawyer from a small town, and therefore had the necessary time to give to its preparation.

The work has been through five editions, in 1876, 1879, 1882, 1891, and 1902. All of them, save the last, he prepared with his own hand. It is probably this book which, more than any other one thing, won for him his honorary degree of LL. D., which was conferred upon him by the University of Michigan and also by Washington and Lee University in his own State.

POLITICAL CAREER.

Maj. DANIEL had scarcely become settled in the practice of his profession before his intellectual gifts, his talent for public speaking, and his personal popularity as well, perhaps, as his natural inclination, forced him into the political arena. He was a Democrat of the purest extraction, and prided himself upon the fact that for over a hundred years he and his ancestors had voted with that party without ever scratching a ticket.

He was elected as a Democrat to the Virginia House of Delegates in 1869, his constituency embracing the city of Lynchburg and county of Campbell, and served in that body for three years.

In 1874 he was elected by the same constituency to the State senate for four years, and was reelected in 1878.

During his service in the State legislature he made an enviable reputation as a legislator, and especially as a debater upon the public questions under consideration at that time. He had taken an active part in the campaigns of his party and had won a personal following all over the State that insured his rapid political promotion. In the meantime, however, and due more to his youth than to any other cause, he had been twice defeated for the Democratic nomination for Congress, and once for the nomination for governor.

But in 1881 he was nominated as the Democratic candidate for the governorship. His speech of acceptance before the convention at Richmond was a masterpiece of political oratory and fired his party with enthusiasm and loyalty. The great issue of the campaign was the funding of the State debt, and thousands of those who had theretofore regularly supported the Democratic Party during this fight allied themselves with the Republicans, and under the party name of "Readjusters" the coalition presented the most formidable opposition the Democrats had ever met, being led by Hon. William E. Cameron, an able, learned, and aggressive candidate.

The campaign was the most brilliant ever waged in Virginia. The ablest men in the Commonwealth threw themselves heart and soul into the contest on one side or the other, and public interest was aroused to the highest pitch of excitement.

Throughout the contest JOHN W. DANIEL was the central figure. He swept over the State, from the mountains to the sea, and everywhere cast the spell of his magnetic eloquence over the thousands who crowded to hear him; revealing to them his high motives, his magnificent abilities, and his splendid qualifications for leadership. And although his party was defeated at the polls he had so firmly established himself in the confidence and regard of the people that from that day he became a leader in Virginia whose clarion voice could ever summon a host to follow and whose supremacy in their affections was never afterwards open to question.

In 1884 Maj. DANIEL was elected to Congress from the sixth congressional district and had scarcely entered upon his actual service when he was elected to the United States Senate for the term beginning March 4, 1887. To this high office he was re-elected four consecutive times, each time without party opposition and twice by the unanimous vote of the legislature.

He was elector at large on the Democratic ticket in 1876 and delegate to every Democratic national convention since 1880 except that of 1884. He became a familiar and favorite figure at these gatherings and was elected temporary chairman of the convention of 1896.

In 1901 he was elected a member of the Virginia constitutional convention and would inevitably have been elected its

president had he permitted himself to be placed in nomination for that office, but, with characteristic generosity, he declined to do so and said:

There are so many gentlemen who are eminently worthy of this office in the convention that it would seem appropriate to confer the distinction on some one of them who has not been so favored as myself.

He was made chairman of the Committee on Suffrage, and entered so vigorously upon the work of that body immediately following a trying session of Congress, that his health gave way under the strain, and for several months he was compelled to withdraw from attendance upon its sessions. He was able to return, however, before its close and took a prominent part in the debates upon its floor and in the actual framing of Virginia's present organic law.

At the time of his death Maj. DANIEL was the oldest Democratic Senator in point of service, and but four among its entire membership had seen a longer continuous service in this body. By virtue of the rule of seniority which prevails here, he held membership upon two of the Senate's most important committees, and enjoyed all the power and prestige incident thereto. But apart from this, and by virtue of his character, ability, and personality alone there was no Senator on this side of the Chamber and but few on the other who exercised a wider or more potent influence both here and beyond these walls.

His unfailing courtesy and gentle manners, his honesty and frank candor, his consideration for others, and his strict observance of all the highest and best traditions of this body not only made him a conspicuous and attractive figure but endeared him to all his associates. And now that he is gone, and we no longer see his familiar face and hear his well-known voice, it is not only the distinguished Senator whom we miss, but a cherished friend as well, for whom we sincerely grieve.

ORATOR.

It is doubtful if any man in public life since the days of the great triumvirate of oratory in this body has surpassed Senator DANIEL in all the qualifications of a great orator. To a mind stored with classic learning and teeming with the riches of a broad and brilliant culture, nature had contributed the aid of features strikingly handsome, a noble countenance, and a pleasing voice. Manly in bearing and commanding in presence, he was a splendid figure, to which his lameness added a touch of the picturesque. Trained from his youth in the arts of public speaking, with gestures full of grace and a tongue schooled to rounded phrases, he won the attention of his auditors with his first sentences, and, captivating their minds with his brilliance and logic and firing their enthusiasm with his eloquence, he frequently swayed them almost at will.

From his earliest manhood he was in constant demand as a speaker on public occasions, and has perhaps delivered a greater number of prepared addresses than any other man of his day. His subjects covered a wide range, and he was sometimes happiest in a lighter vein, but he was always thoughtful and never spoke for the sole purpose of entertainment.

At the unveiling of the recumbent statue of Robert E. Lee, at Lexington, Va., in 1883, he delivered the memorial address. To this occasion he brought not only all of his great gifts, but an affection and veneration for his subject that filled him with inspiration, and the result was a magnificent oration that aroused his hearers to the highest pitch of enthusiasm and was immediately acclaimed all over the country as a masterpiece of oratory. It was undoubtedly his greatest effort, and among the many splendid addresses he has elsewhere delivered it stands preeminent and will survive as a classic.

But had he never made this speech, numerous others would have made him great in this field, for there is a long list of ceremonial occasions upon which he delivered orations worthy alike of the occasion and himself. Among those deserving especial mention because of their beauty and eloquence are:

His speech delivered at the ceremonies attending the dedication of the Washington Monument.

His address upon "Jefferson Davis," delivered before the Legislature of Virginia upon its invitation.

His address upon "Stonewall Jackson."

His address at Kings Mountain upon the centennial anniversary of that battle.

His speech upon "Virginia," delivered at Chicago during the World's Fair on Virginia day.

His address in the House of Representatives at the celebration of the centennial of the establishment of the Government at Washington.

His speech at the Confederate Reunion in New Orleans.

His address upon "Abraham Lincoln."

His oration at the unveiling of the bust of John B. Minor, at the University of Virginia.

His speech upon "Thomas Jefferson."

His address upon "Americanism," at the University of Michigan, and his two lectures, "The English-Speaking People" and "The Unities of the Union."

It is needless to mention his many magnificent speeches delivered upon this floor. Always alert as to the business under consideration, and ready and able to maintain himself at all times in running debate, yet he rarely addressed the Senate except upon questions of importance and only after careful preparation. Upon occasion, however, when the exigencies of the moment required, he would take the floor for an impromptu speech, and always commanded the most respectful attention, for the Senate had learned that he never spoke save when he had something to say worth while for it to hear.

His great speech in the Senate on "The Free Coinage of Silver" is justly regarded as among the ablest of all the many utterances upon that subject, and that upon "The Independence of Cuba" was an especially brilliant example of his eloquence and power.

Upon the stump he was peculiarly effective. Delighting to mingle with the great masses of the plain people, for whom he entertained the greatest admiration and respect, he accepted every convenient opportunity to address them in their small towns and country villages; and many of his finest speeches were made upon such occasions.

With all his splendid capacities and powers, he never permitted them to be applied to invective or bitterness or ridicule. But always and ever he displayed an innate courtesy, an easy dignity, a gentleness of bearing, a frankness and candor, and a nobility of thought, that robbed the most carping critic of any doubt of his sincerity and mental integrity. And whether in the United States Senate, or before the most distinguished courts, or upon the village greens of Virginia, he was equally at his ease; because he was always conscious of his own honesty of purpose and purity of motive and knew that nothing save a lack of these need make him afraid.

His tongue was taught no phrase of harshness;

His lips could speak no word of guile;

But gentleness and truth, twin virtues,

Attended him, with sweetest smile.

THE MAN.

JOHN W. DANIEL was one of the most lovable of men. He possessed a personal magnetism that seemed to draw to him all classes and conditions alike. Sweet tempered and serene, responding to every advance of friendliness and affection, and with a superb loyalty to those admitted to his friendship, he became a general favorite from his first appearance in the Senate. While ever a staunch defender of Virginia and the South, brooking no unjust attack upon either from any quarter, he yet had none of the rancor and bitterness that too often displayed itself on both sides of this Chamber, especially during the earlier days of his service.

It is doubtful if any one man during more than a generation past has exerted a greater influence in the restoration of the harmony and friendship between the North and the South that is now so happily accomplished. It was one of the treasured purposes of his life. In the course of his eulogy upon the late Senator Quay, delivered upon this floor, and after referring to the era of ill-feeling that had so long existed, he said:

I could pay to his memory no better and no sincerer tribute, and for my country could express no better wish, than by saying at his open grave, "God grant that the departed era may return no more to our country."

Because of this trait of character, perhaps, as well as his many other virtues, he has numbered among his warmest friends and admirers men whose political faith, sectional affiliations, and familiar associations were utterly at variance with his own. And thus we see one Republican Vice President directing his portrait to be forwarded to Senator DANIEL with warmest expressions of affection, and another who writes him from far-off China:

I could pay to his memory no better and no sincerer tribute, and that you will enjoy a well-earned vacation. Conserve your strength, for the country has much need of you.

Mere incidents in themselves, but evidences of the universal regard and esteem in which he was held by all his associates here.

In his family relations, he was a most devoted husband and loving father, whose keenest delight was to do some act that would bring pleasure to wife or children. Simple and unaffected in his manners and habits, but stately in his courtesy and native dignity, he was a typical "gentleman of the old school," and as a brilliant Virginia editor recently wrote in an appreciative editorial, "the pity of it is that the 'old school' has closed its doors and the type is no longer produced."

His affability and approachableness were known to everyone in his home town of Lynchburg, and his daily drives to his

office were almost triumphal processions. Everybody wanted to speak to "The Major," as they all called him, and to shake his hand. And to none, whether white or black, was his gracious and courteous salute denied.

He was a most indefatigable worker; and until recent years rarely ever retired until long after midnight. He preferred the undisturbed quiet of later hours for his labors, although his wonderful power of concentration enabled him to work under conditions that would have driven most men from the attempt in despair. Few could have sustained their strength under the burden of work he imposed upon himself, nor could he have done so except for his splendid constitution and his peculiar ability to sleep anywhere and at any time when he so willed.

The lure of gold never dazzled the eye of JOHN W. DANIEL. His attainments and professional ability brought him many flattering offers that would have meant opportunities to accumulate a fortune commensurate with the value of the service sought from him. But he preferred the daily association with those whom he affectionately called his "own people," and the environment and atmosphere of his native Virginia; and after 30 years spent almost continuously in public office, he died as poor in purse as when he began. But he has left to his children, in the memory of his illustrious career, his incorruptible honesty and stainless honor, and in the assurance of his enduring fame a heritage more to be treasured than all the riches of the world.

ILLNESS AND DEATH.

During the fall of 1909, while Senator DANIEL was in Philadelphia, he was taken ill with pneumonia and was confined for some weeks to his room at the Bellevue-Stratford. Before he was sufficiently restored to strength to return home he suffered a slight stroke of paralysis which affected his right hand and leg. This attack was not dangerous in itself and, returning to Lynchburg, he soon recovered therefrom. But it was premonitory of a serious condition and none knew better than he what it portended. His father and grandfather alike, at about his age, had died from attacks of apoplexy; and he had frequently stated his belief that his end would come in like manner.

Under directions from his physicians he went to Florida during February, 1910, in the hope that a few weeks in the open air of its congenial climate would enable him to return to his duties in the Senate. But while at Daytona, on March 8, he suffered a severe stroke of paralysis affecting his whole left side. The news of his grave condition brought sorrow and fear to every heart; and when later he lapsed into coma and his death seemed imminent, Virginia fell upon her knees and prayed that he might be spared to her yet a little while longer. For many weary weeks he battled for his life, and so far maintained his strength that his family were able to bring him back to his beloved Virginia on April 24. There all that love could suggest and science could accomplish was done for him; and for many more weary weeks the fight continued, now with a ray of hope to cheer, and again with the grim desperation of almost hopeless despair.

And during all these trying days the bulletins of his condition were the foremost items of news to the whole people of Virginia. They literally watched at his bedside with his family and joined them in their tearful prayers, as was the right of their boundless love and admiration. But the hand of fate was upon him, and on June 29 he suffered another and severer stroke, and it was known his hours were numbered. And when, at 10.35 o'clock on that night, the tolling bells of the city rang out the sad message that the end had come, Virginia bowed her head and abandoned herself to grief.

In obedience to his own well-known desires his obsequies were as simple and unostentatious as the determination of the people to honor his memory would permit. His body lay in all the calm dignity of death, without ceremony or any trappings of state, in the home of his beloved daughter. There many of his old comrades in arms and lifelong friends, among both races and from all ranks and stations, came to look their last upon his noble face, which bore upon it the stamp of that serenity and peace which gave assurance that his oft-expressed, dearest wish had been fulfilled, and that he had "passed out of the world at peace with God and man."

The impressive Episcopal service for the burial of the dead was read in St. Paul's Church in the presence of the governor of Virginia and his staff, the senatorial and congressional delegations, the delegations from the two Houses of the General Assembly of Virginia, many of the officers of the State and city, and an assemblage of distinguished citizens that taxed the capacity of the edifice. The cortege was formed for its journey to beautiful Spring Hill Cemetery, preceded by battalions of

State militia and with the band playing the beautiful hymn, "Nearer My God to Thee." A solemn stillness which pervaded the air bespoke the splendid tribute of his native city—not a wheel of industry was turning, every business house was closed.

The mournful procession for more than a mile of its sad journey moved onward between solid masses of the city's people, and the flowing tears that fell from the eyes of strong men and sweet women alike attested the fact that it was no idle curiosity that brought them forth, but that it was their last tender tribute to a departed friend.

As the sun was slowly sinking in the west the body was lowered to its final resting place. His beloved comrades of the Army of Northern Virginia formed a cordon about his open grave, a volley of musketry rang out upon the air, taps was sounded, the old soldiers in gray stood at their final salute, the grave was covered with beautiful flowers, and all that was mortal of JOHN W. DANIEL was closed to the sight of man forever.

But JOHN W. DANIEL is no more dead than are other thousands of the great and good whose works yet live after them and whose influence is yet felt upon the earth. Men such as he can not live and die and count death the end. But for countless years will his tongue continue to speak to listening thousands and uplifting them by his noble thoughts. And for generations yet to come will men be higher and nobler themselves because of his nobility and purity of character.

In due course a monument is to be erected to the memory of Senator DANIEL in his native city of Lynchburg. An offering from the entire people of the State of Virginia, it will be beautiful and enduring. But whatever of art may be spent upon its design it can not be more beautiful than the character it is to commemorate, and whatever material may enter into its construction it will crumble into dust before the name of JOHN W. DANIEL shall have been forgotten or his influence shall have ceased to live. For he was a

Statesman, yet friend to truth, in soul sincere,
In action faithful, and in honor clear.

Mr. FOSTER. Mr. President, I offer the resolutions which I send to the desk.

The VICE PRESIDENT. The Secretary will read the resolutions submitted by the Senator from Louisiana.

The resolutions (S. Res. 360) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow of the death of the Hon. SAMUEL DOUGLAS McENERY, late a Senator from the State of Louisiana.

Resolved, That as a mark of respect to the memory of the deceased Senator the business of the Senate be now suspended to enable his associates to pay proper tribute to his high character and distinguished public services.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Mr. FOSTER. Mr. President, it is with feelings peculiarly tender that I offer this last tribute to the memory of my late colleague, Senator SAMUEL DOUGLAS McENERY.

There was so much of his public life intimately connected with my own, almost from the time I reached man's estate until he died, that his death was a veritable shock to me. He was lieutenant governor of Louisiana and presiding officer of the State senate at the same time I became a member of that body, and for years we fought shoulder to shoulder many of the political battles of the State until political exigencies demanded that we should lead opposing forces in the bitterest factional contest Louisiana has ever known. These differences were buried years ago, and in their stead there grew up and existed the warmest friendship. Our relations in this body were particularly friendly, and I felt a great personal loss when he passed away.

SAMUEL DOUGLAS McENERY was a native of Monroe, La. His father, Col. Henry O'Neil McENERY, was born in Ireland, but emigrated to this country in early youth, and settled at Petersburg, Va., where he married Miss Elizabeth Douglas, of that State.

His father remained in the Old Dominion some years after marriage, and several sons were born there, among them John McENERY, an elder brother of the Senator, who was also destined to become one of the governors of Louisiana.

The father moved with his young family from Virginia to Louisiana in 1835, settled in Ouachita Parish, acquired a plantation, and there, two years later, on May 28, 1837, his youngest son, SAMUEL DOUGLAS, was born.

It was a new country, and had been settled by strong and masterful men, who were planters on a large scale and employed

slave labor. They had to meet and overcome untold difficulties, and, without doubt, these early experiences left their imprint on the boy, for they were calculated to develop the traits of independence, pluck, and courage that marked his career throughout life to the very end.

But while the hardships of those early days were many the rewards were even greater. Land was plentiful, the crops abundant, and the family prospered.

Col. McEnery was an able and successful man, one who made many friends and acquired a great deal of influence in his adopted State. He was a Whig in politics until that party disappeared before the aggressive onslaughts of the "Know Nothings," when he became a Democrat, and remained a conspicuous figure in that party until death. As a reward for his public services he was twice appointed register of the land office at Monroe, La., a position of trust and responsibility, especially in a new country at that time.

Col. McEnery was enabled to equip his sons for the struggle of life in the best schools and colleges the country afforded, and his youngest son, who had been named for an uncle on the Federal bench in Florida, was given a thorough academic education at Spring Hill College, conducted by the Jesuit Fathers, near Mobile, Ala. After graduating there he was appointed to the United States Naval Academy at Annapolis, and practically finished the course at the institution, when he resigned to enter the University of Virginia, where he remained until the death of his father in 1857. Then he matriculated at the National Law School at Poughkeepsie, N. Y., studied two years, and was graduated in 1859.

At the solicitation of a former classmate at Annapolis he went to Maryville, Mo., opened a law office, and had begun the practice of his profession there when the war came on between the States. Without hesitancy he responded to the call of the South and enlisted as a private in the army of the Confederacy. The rudiments of military training received at the United States Naval Academy, together with a masterful and intrepid character, attracted the attention of his superiors, so that while serving under Gen. Magruder in the early Virginia campaigns he was promoted and commissioned a lieutenant. Later he was transferred to the trans-Mississippi Department, where he saw hard service and heavy fighting.

With peace he returned to Louisiana to assist in rebuilding it from the devastation of four long years of war and secured employment teaching school in Ouachita Parish. He was to learn, however, that those who had just laid down their arms could not travel the paths of peace until another long and bitter struggle was waged, even more cruel than hostilities in the open field conducted under the rules of war.

It is not necessary to recount the horrors of that time. Their enormities have often been repeated here, and the country is familiar with them.

It suffices to say that out of those bitter and angry passions a condition developed calling for all there was of leadership and patriotism among the white men of the South, and it was at this juncture that Capt. SAMUEL DOUGLAS MCENERY first became generally known and endeared to the people of the State.

All through the struggle to restore white supremacy Capt. MCENERY was active, determined, and aggressive, never ceasing his efforts until the government of Louisiana rested again in the hands of the white people. Then he returned to his labors in the public schools and later resumed the practice of law.

At this time a number of public offices were tendered him as a reward for the part he took in redeeming the State, but he refused them.

He had been marked as one of the leaders of the time, however, and in 1879 was nominated for lieutenant governor. This honor was all the greater, because the convention that named him was controlled by the opposing faction of his party, and its action was in recognition of his heroic service in the cause of white supremacy.

As lieutenant governor he served two years, when the death of Gov. Wiltz, in 1881, called him to the gubernatorial chair and placed the destinies of Louisiana in his hands.

Shortly after he assumed office the seat of government was removed from New Orleans back to Baton Rouge, where it had existed before the war, and he will always be remembered as the first executive to administer the affairs of the State from the restored capital.

Few executives have had to contend with such unfavorable conditions as prevailed in the State at that time. War, pestilence, flood, and famine, following in close succession, left their fell effect upon her people.

The financial condition, when he became governor, was unsatisfactory. Doubt, distrust, and litigation had well-nigh destroyed the credit of the State, and at one time it was feared

that certain of the courts would have to suspend for want of funds.

The expenditures largely exceeded the revenues. By way of illustration, the receipts from licenses and taxes placed to the credit of the general fund in 1880-81 were little more than half the appropriations charged against the fund. The magnitude of the task confronting him can therefore be readily seen.

To meet this deplorable situation Gov. MCENERY convened the legislature in extra session, and our public duties brought us together then for the first time.

In his first message he called attention to the fact that during the Reconstruction period the revenue laws of the State had been progressively growing less efficient. Large amounts of property, movable and immovable, had escaped taxation, and there was no uniformity of assessment. As a consequence some sections were paying a large tax on a high valuation, and others a small tax on a low valuation.

The assessment roll for 1880 showed a valuation of less than \$178,000,000, which was wrong, he said, and did the State no credit; if fairly assessed at only two-thirds of its valuation the assessment should easily show \$300,000,000, and he recommended legislation that would correct the evils of unjust and unequal valuation.

But before these reforms could be carried out, and almost at the inception of his administration, Louisiana was almost overwhelmed with the most destructive flood that has ever visited any State.

Inundations have by no means been infrequent in the history of that Commonwealth, but none have approached the destruction wrought in 1882. The torrent that swept down from the northern rivers broke through the levees of Louisiana in 83 different places. The arable land inundated amounted to 606,674 acres, and in 16 parishes alone the loss sustained amounted to \$12,061,910.

In this torrent, dwelling houses, cabins, fences, and all improvements were swept away; the work stock and cattle were drowned by the thousands, and the destruction and suffering of the people was intense. Thousands of families were imprisoned for days upon the roofs of houses, rafts, or small areas of elevated land, and when the floods subsided they were powerless to cultivate their fields.

There were recurring floods for the next two years, and the damage was less only because the flood had left less to destroy.

The empty treasury, the havoc wrought by the elements, the demand for levees and other public works, together with the unsettled conditions throughout her borders, demanded executive ability of high order to direct the ship of state, and Gov. MCENERY threw himself into the work with all the zeal and energy that had characterized his leadership in the White League.

Two years after the disastrous flood of 1882 he reported to the legislature that 120 contracts for the construction of levees had been let, and that 130 miles of levees, embracing over three and one-half million cubic yards of earth, had been built.

The limited resources of the State prevented carrying out at the time many of his suggestions, but his messages to the general assembly are replete with wisdom and valuable advice.

The public schools especially appealed to him. His personal experience as a teacher immediately after the war enabled him to thoroughly understand their wants, and he labored for the improvement of the system.

In his message to the legislature he recommended that every cent not needed for current expenses should be appropriated for public instruction, and legislation enacted to provide for compulsory attendance at school.

He said the State should interfere as little as possible with the economy of the family, but had a right to protect itself by requiring enforced attendance. He held, however, "that the State could only give a general and partial superintendence in this matter. That the danger of popular education lay in relying exclusively on the State and National authority for aid; and that no community succeeded in educating its children until it had faced the hard fact of local taxation."

Gov. MCENERY's administration, following as closely as it did upon the heels of the ignorance, extravagance, and corruption that marked the reconstruction period; upon the epidemics that scourged that State in 1878 and 1879, and upon the floods that wrought such havoc in 1882, 1883, and 1884, would have been notable for the repairs it made to this long and varied series of disasters if for no other reason.

But his administration was notable aside from these, for many legislative achievements and public works, and while there are numerous things for which it will be remembered, the greatest of these, it may be said, is charity.

While he was governor the State provided for the permanent maintenance of Camp Nicholls as a home for the brave men who gave their youth and manhood for her defense during the war between the States, while the Charity Hospital in New Orleans, one of the noblest and grandest institutions of its kind in all the world, was the special object of his care and attention.

As a result of his assistance, the ambulance service of that institution was established, and by the inauguration of consultation clinics, its beneficent work was extended to the out-door poor.

The impulse he gave to this great work of philanthropy, the kindly influence he exerted in promoting its usefulness, and the material assistance he rendered in enlarging it are recorded in the archives of the State and emblazoned on the walls of the institution itself so that future generations may know them.

Although not renominated at the expiration of his second or regular term, it was characteristic of him that he did not sulk in his tent.

Recognizing the necessity of Democratic success and white supremacy, he threw himself into the contest with all his old-time ardor and energy, rendering invaluable service in one of the most brilliant campaigns ever waged in Louisiana. Shortly thereafter, when a vacancy occurred on the supreme bench, he was appointed, not only as a recognition of his high service alone, but as a tribute to his high integrity and to the complete confidence of the people in him.

While he was serving in this high judicial capacity, some twenty-odd years ago, he and I were called upon to lead opposing factions in the Democratic Party as candidates for governor.

The campaign centered upon the rechartering of the Louisiana Lottery Co., an institution created during the days of reconstruction, and a heritage of the very conditions from which Capt. McENERY had fought to relieve the State.

It is difficult for one who did not participate in that campaign to appreciate the bitterness it engendered, or the heart-burnings that remained long years after the struggle was ended.

It is no exaggeration to say that nowhere since secession was the issue, has any State been wrought up to such a high pitch of excitement as existed in Louisiana during the struggle for the recharter for the lottery company.

The issue went against his faction. I was elected governor and he resumed his duties as a member of the Supreme Court. And right here I wish to say that had he never served his people in any but a judicial capacity his fame would have been secure, for as a jurist his work was of the highest order. His natural mental gifts had been improved by careful study and he possessed the faculty of expression in a remarkable degree, so that his decisions were noted no less for their deep learning and cogent reasoning than for their clearness and perfect diction.

It was a peculiar coincidence, Mr. President, that both men who successfully opposed him in his last two contests for the governorship should afterwards be instrumental in elevating him to other high offices where they served with him.

Yet this is exactly what happened with both Gov. Nicholls and myself. After the bitter campaign of 1888, Gov. Nicholls, as I have said, in recognition of his great services and eminent abilities, appointed him to a position on the supreme bench of the State, to which illustrious body the governor went himself after his term of office.

And even as Gov. Nicholls had tendered him a place upon the supreme bench, so it was my great privilege, while serving as governor, to be instrumental in having him come to the Senate.

Both had met him in battle on the hustings for the suffrage of the people, and with good reason knew his worth as an antagonist in the field; both had known him when the bitterness of the struggle had been buried and forgotten, in the judicial chamber or here in the Senate; both became endeared to him because of his lovable personality and sterling worth of character; and, Mr. President, I am absolutely frank in saying that when he died there were no two men in the State who more deeply deplored his passing than Gen. Nicholls and myself.

The devotion in which he was held was never more clearly shown than when first elected to the Senate in 1896. The democracy was confronted with a crisis that year and he was called upon to save it.

The legislature was charged with the election of a United States Senator. After a spirited contest, it was found impossible to return the regular party candidate, owing to factional wounds, and a condition developed which threatened to deprive the party of the Senatorship. In this situation there was but one man in the State upon whom all factions could unite. That was Justice McENERY, and it was decided to call him from the quiet shades of the judicial chambers to take up the legislative burdens here in the Senate.

In this instance, as throughout his career, he never faltered when the Democratic Party called. Owing to his views on the tariff, however, which placed him at variance with a majority of his party, he announced his desire to make his position clear to the Democratic caucus. He frankly declared that he was a protectionist, in favor of all internal improvements, with broad national views on many other questions, and that he could not change these views. He was elected with the understanding that he should be free to vote in accordance with his personal views on those questions, and these facts should not be forgotten in considering his record here.

During the consideration of the present tariff laws, his attitude was the subject of widespread comment, and of bitter criticism in certain quarters. The position he then assumed, however, was in keeping with the announcement he made to the legislative caucus when first elected, and with the stand he took on first coming to the Senate, upon the convening of the Fifty-fifth Congress, in 1897, when the Dingley law was being drafted.

Addressing the Senate early that session, he called attention to criticism just then being leveled at him for the first time since entering the field of national politics and stated that his position was by no means new to the people of Louisiana. It was substantially the same, he asserted, as he had assumed in 1884, when triumphantly elected by the people of that State to succeed himself in the high office of governor. "And when I was nominated by a Democratic caucus for this present position," he continued, meaning the senatorship, "before the vote was taken, and so that there could be no misunderstanding, I went before the caucus, although not called on, and made the same statement that I did in my inaugural address in 1884." He believed the tariff to be purely a business question, which had no place in party politics.

But while his views on the tariff were most familiar to the present generation, it is likely that he will best be known to posterity because of his attitude toward Hawaii and the Philippines.

In acquiring those islands and absorbing their uncivilized people, he feared this country was entering upon an era of turmoil and strife, and by the introduction of the McENERY resolution did all within his power to avert what he considered must prove ultimate disaster.

That resolution, adopted by the Senate in the Fifty-fifth Congress, was as follows:

Resolved, That by the ratification of the treaty of peace with Spain it is not intended to incorporate the inhabitants of the Philippine Islands into citizenship of the United States, nor is it intended to permanently annex said islands as an integral part of the territory of the United States, but it is the intention of the United States to establish on said islands a government suitable to the wants and conditions of the inhabitants of said islands as will best promote the interests of the citizens of the United States and the inhabitants of the said islands.

That resolution was presented when the country was flushed with the victory of the Spanish War. The banner of Castile and Aragon had been driven from the Pacific, theegis of this Republic had been extended over 2,000 islands of the sea, and more than 10,000,000 people suddenly found themselves beneath our flag.

He knew that it was not popular to advocate withdrawing from the Philippines, nor did he propose doing so until order was restored, acknowledgment received of our undisputed sovereignty, and provision made for coaling stations and other naval needs.

But he also knew that two races could not live in harmony and on terms of equality anywhere, not even in the Orient. His knowledge as a profound student of history, together with his bitter personal experience during the reconstruction period in the South, told him that the immutable laws of nature forbade it, and in order that those islands might not become an integral part of this country, he introduced and advocated the now famous McENERY amendment.

The adoption of this resolution was very bitterly opposed by many Senators who were against the ratification of the treaty of Paris, and it was the subject of a fierce and bitter debate in this body.

I shall not go into the merits of that debate nor discuss the differences of opinion as to the effects of this resolution, but shall content myself with stating that the deceased Senator always contended that his great purpose in introducing this resolution was to prevent the incorporation of the Filipino into the citizenship of this Republic, and to prevent a permanent annexation of the islands as an integral part of the territory of the United States.

In 1878 Senator McENERY married Miss Elizabeth Phillips, daughter of a prominent planter of Ouachita Parish, a lady of much culture and refinement, who survived him with two

sons, Mr. Charles Phillips McEnery and Dr. Douglas W. McEnery, and one daughter, Jane, wife of Mr. W. B. Parks, all residing in New Orleans.

Senator McENERY was one of the historic characters of his State. He was, at different times, lieutenant governor, governor, associate justice of the supreme court and United States Senator, and his promotion from one place to another in regular progression proved that he filled all the places with credit and to the advantage of his people.

He was a Louisianian in every sense of the word, devoted to the interests of his people, and with marked ability and characteristic independence sought to serve them whenever and wherever he could.

He carried with him a personality of his own. He was a courtly gentleman, a true and loyal friend, and a brave, honest, and courageous public servant. As a Senator he was universally loved and respected and in everything that he did while here, it is my honest conviction that he did it from a high sense of duty to the people whom he represented. He acted upon the principle that his first duty was to his State, and, while at times differing with his party associates, yet he always held their respect and confidence.

The late Senator was very close to the hearts of our people. They held him high in their love and esteem. The people knew him. They knew his faults and virtues, and they implicitly trusted him. They knew that he always placed their interests above personal consideration and that their welfare was uppermost in all his endeavors. This is attested by the fact that while occupying high positions in which his personal interests might have been advanced, yet he died a poor man—a splendid tribute to the honesty, integrity, and uprightness of his public and private life.

It is well known that for a number of years Senator McENERY and I were opposed in politics. After I became associated with him in the Senate our acquaintance soon ripened into a profound friendship. I doubt if there were any two Senators from any State in the Union whose relations were more pleasant and congenial than ours.

It was a pleasure to have him as a colleague. He was always courteous, kind, and thoughtful, and never during the term of our service did we have a serious disagreement. Sometimes, it is true, we voted differently, but we each accorded the other the sincerity and honesty of conviction, and such differences never interfered in the slightest either in our personal or official relations. He was to me a friend upon whom I could absolutely rely and whose loyalty and devotion I could trust without question. Such a friend is indeed a loss.

Senator McENERY left Washington City at the close of the last session in good health, but was taken sick on the train before reaching New Orleans and had to be carried home. He lingered for a short time, very weak, but conscious almost to the very end, and met the summons from beyond in the same brave, courageous spirit that he met all the difficulties and trials of life.

Surrounded by his wife and children, and with almost the same sweet, gentle smile that always greeted his friends and loved ones, he met the reaper, while his spirit passed beyond the river, and let us hope will rest forever in peace.

Mr. LODGE. Mr. President—

When sorrows come, they come not single spies,
But in battalions!

Shakespeare's melancholy and noble lines have been brought to my mind only too frequently in these last months as death has descended again and again upon the Senate. Day before yesterday I joined in the ceremonies which commemorated the life and services of my good friend Senator CLAY. To-day I rise again to speak of a distinguished man, also a friend of many years, who was so long the senior Senator from Virginia.

Senator DANIEL was to me, from the time when I first saw him here, one of the most interesting figures in the Senate and in our public life. As I came to know him well, interest deepened into real affection, and I sorrow for him not only as a loss to the Nation and to Virginia, but as a friend whose departure I shall always mourn.

When, as a Member of the House, I first saw him on the floor of the Senate I was arrested by his appearance and found a fascination in watching him. He was very striking in his looks, with a head and face which would have been remarked anywhere and in any assemblage of men. He reminded me of the portraits of the leaders of the French Revolution—the men who destroyed an ancient monarchy, reorganized France, and shook the civilized world from center to circumference. In nearly all their faces, as in his, one sees strangely commingled with the gaze of the dreamer and the visionary, that expression

of intense energy which is so easily translated into action. They were very young for the most part, those leaders of the French Revolution; they did great deeds, whether for weal or woe; they conquered young and they died young. In nearly all we see that strange look which seems to belong to those who are ready to sacrifice youth and joy and life for the faith which absorbs their being.

Senator DANIEL had long passed youth, had gone beyond middle age, and yet he seemed to me still to have the expression of those who in the flush of young manhood sought the great prize of death in battle for the sake of beliefs to which their hearts clung; in pursuit of visions seen only by them. The touch of romance, the look of the dreamer, the passionate energy of the man of action, all seemed to meet in his aspect and his eyes.

With a brilliant record as a soldier, not merely eminent at the bar, but as a writer on law of high authority, after much public service in his own State and in the House of Representatives, Senator DANIEL came to this body with distinction already achieved and with a high reputation in many fields already secured. He had as a gift of nature great eloquence of speech, and this gift had not only been enlarged by care and practice, but had been made weighty and serious by the studies he had pursued and by the reflective and philosophical cast of his mind. One could easily disagree with him, but he never failed to arrest the attention or to furnish food for thought in what he said. His style was of the old school, the richer and more florid style of the first half of the nineteenth century. It has passed out of fashion now. The modern taste is for something plainer, more direct, more businesslike, because this is an age when business is regarded as of the first importance in every department of human activity. Yet the school to which Senator DANIEL belonged produced speakers who have never been surpassed in the annals of oratory. The faults, both of the period and of the school, can be easily pointed out, but the heights in the great art of speech to which some of the men of that age attained remain to-day lonely and unscaled. Senator DANIEL exhibited all the qualities of that earlier time in high degree, and it was possible to those who lent an attentive ear to learn from him many lessons which would not be without great profit even at the present time. In him there was always dignity and, what is of infinitely more importance, that sincere respect, not merely for his audience, but for what he was himself doing and saying as a public man, which is so often neglected, to the great detriment of speakers and listeners alike. He had in large measure the "high seriousness" which Aristotle commends in the poet.

He did not speak on many subjects. He was not an incessant talker. But upon any topic which engaged his attention he spoke copiously and well, and never failed to show that he had thought much and independently upon the questions involved. He liked large issues, because they offered the widest opportunity for speculation as to causes and for visions of the future. This reach of mind made him an American in the largest sense and showed clearly in the note of intense patriotism which sounded so strongly in his more formal addresses.

It was always a pleasure to talk with him, for he was unfailingly suggestive and ranged widely in his thought. The grave courtesy of his manner, which never wavered, had to me a peculiar charm. I should not for a moment think of hinting even that the manners now generally in vogue are not better, but they are certainly different. Manners like those of Senator DANIEL, I suppose, would be thought to take too much time, both in acquisition and practice, among a generation which can employ its passing hours so much more usefully. Yet I can not divest myself of the feeling, an inherited superstition perhaps, that manners such as his—serious, gracious, elaborate if you please, but full of kindness and thought for others—can never really grow old or pass out of fashion.

He loved his country and he loved her history. He cherished with reverence her institutions and her traditions. It could not be otherwise, for he was a Virginian, and the history and traditions of his own State outran all the rest. Others may disregard the past or speak lightly of it, but no Virginian ever can, and Senator DANIEL was a Virginian of Virginians.

He believed, as I am sure most thoughtful men believe, that the nation or the people who cared naught for their past would themselves leave nothing for their posterity to emulate or to remember. He had a great tradition to sustain. He represented the State where the first permanent English settlement was founded. He represented the State of George Washington.

I will repeat here what I have said elsewhere, that, except in the golden age of Athens, I do not think that any community of equal size, only a few thousands in reality, has produced in an equally brief time as much ability as was produced by the Virginian planters at the period of the American Revolution. Wash-

ington and Marshall, Jefferson and Madison, Patrick Henry, the Lees and the Randolphs, Masons and Wythe—what a list it is of soldiers and statesmen, of orators and lawyers! The responsibility of representing such a past and such a tradition is as great as the honor. Senator DANIEL never forgot either the honor or the responsibility. Can more be said in his praise than that he worthily guarded the one and sustained the other!

The Civil War brought many tragedies to North and South alike. None greater, certainly, than the division of Virginia. To a State with such a history, with such memories and such traditions, there was a peculiar cruelty in such a fate. Virginia alone among the States has so suffered. Other wounds have healed. The land that was rent in twain is one again. The old enmities have grown cold; the old friendships and affections are once more warm and strong as they were at the beginning. But the wound which the war dealt to Virginia can never be healed. There and there alone the past can not be restored. One bows to the inevitable, but as a lover of my country and my country's past I have felt a deep pride in the history of Virginia, in which I, as an American, had a right to share, and I have always sorrowed that an inexorable destiny had severed that land where so many brave and shining memories were garnered up. That thought was often in my mind as I looked at Senator DANIEL in this Chamber. Not only did he fitly and highly represent the great past, with all its memories and traditions, but he also represented the tragedy, as great as the history, which had fallen upon Virginia. To the cause in which she believed she had given her all, even a part of herself, and the maimed soldier with scars which commanded the admiration of the world finely typified his great State in her sorrows and her losses as in her glories and her pride.

Mr. GALLINGER. Mr. President, the late Senator from Louisiana belonged to a type of men quite too rare in these days. He was a man of dignity, integrity, high sense of honor, and independence of thought. A Democrat in politics, he did not allow partisanship to control his speech or his votes. Once satisfied that he was right, no influence could swerve him from the path he had marked out. He belonged to the old school of southern statesmen, and he carried himself with a poise and dignity of manner that bespoke the gentleman that he was. Courteous, kind, thoughtful of others, he commanded the respect of his associates in the Senate, as well as of the people of the State which he so ably and conscientiously represented.

It was my privilege to serve with the late Senator McENERY for 13 years. Of the same age as myself, there was much in common between us, and our friendly relations were to me a source of much pleasure. We were both members of the Committee on Naval Affairs, and in the committee room I learned to value and admire him. He was a constant attendant upon the meetings of the committee, and in the matter of appropriations for the Navy was neither reckless nor parsimonious. He believed in a well-balanced and strong Navy, and his voice and vote were in favor of adequate appropriations to build it up and sustain it. A student at the United States Naval Academy, at Annapolis, he was a warm friend of that institution, taking special pride in its development and success. Always watchful of the interests of his own State, he was broad-minded and generous toward all other sections of the country.

As I knew Senator McENERY, he was a most charming and lovable man. Brave and self-reliant, he was at the same time tender and considerate. He never lost sight of his obligations to his fellow men and never intentionally wounded their feelings or wronged them in any way. He was a conscientious public servant, a popular citizen, and a good and true friend. He stood for what is best in life, living up to high and true ideals.

Mr. President, SAMUEL DOUGLAS McENERY brought honor to his State in all the positions of trust and responsibility that his people conferred on him. In the Senate he illustrated the high qualities of heart and brain with which he was endowed. He had the confidence and respect of every Member on both sides of the Chamber, and the announcement of his death brought a peculiar sadness to all our hearts. We miss him from his accustomed place in this body; we miss his genial greeting and his kindly words. He has answered the summons that sooner or later will come to us all, and it will be well for us if, when the call comes, we are as well prepared for the great change as was our associate and friend in whose honor these words of eulogy are being spoken to-day. He has gone from us, but his memory will be a benediction and an inspiration to all who practice truth, who love justice, and whose life is patterned after the teachings and example of the Master. On his grave we would place a flower, and in our heart of hearts we

would embalm the memory of a good man whose services to his State and his country entitle him to a place among those who have brought honor and renown to the institutions of the Republic.

Mr. ROOT. Mr. President, it is a melancholy satisfaction to add my word of tribute to the memory of Senator DANIEL. I knew of him first as the author of a painstaking, accurate, and clear work upon one of the dry and technical branches of the law. I wondered that the nature which could bring itself to the labor of preparation and exposition in such a field could also be the nature of a gallant soldier and a convincing and stirring advocate; still more that it could be the nature of an orator, with the breadth of view and the loftiness of idealism and tenderness of sympathy which made him potent to move the masses of men.

I first came to know him when the interests of the people of his State of Virginia brought him into the Department of War and into consultation with the head of the department. I do not know that in all the years of experience as head of the Department of War—and then as head of the Department of State, which brought me into contact with so many of the strong and able men of our country, I have ever been more impressed. I doubt if I have been ever so much impressed, by the personality of any man as I was by the personality of Senator DANIEL. His distinguished and sincere courtesy, the grave dignity which characterized his demeanor, the simplicity, directness, and truthfulness of his utterances, the ingenuousness of his motives, were so apparent that above all the men whom I have ever known he created an atmosphere which lifted up those about him to the same high plane of his own noble purpose.

His courtesy was not mere manner. His manner was but the expression of a sensitive and noble spirit exhibiting itself through the forms of a great tradition. The sensitiveness of his sympathy impressed upon everyone who knew him the certainty that he was a pure, sincere, and noble gentleman. The kindness and considerate character that was displayed in his action and his words furnished a guaranty of his justice, of his considerate and thoughtful regard for the rights, the feelings, and the prejudices of others. He never left the War Department or the State Department in my time that I did not feel myself a better gentleman and a better officer for having come under his influence and having been within the sphere of the atmosphere that surrounded him for even the few minutes of our interviews.

Ah, sir, that was the nature that breathes the very soul of patriotism and love of country. Brave soldier as he was, earnest advocate as he was, indomitable in every enterprise to which he set his hand, fearless as against all opposition or attack, he had that essential regard for the rights, the feelings, the prejudices of all his countrymen which makes it possible for the people of a free, self-governed country to live together in peace and harmony, and to love their country and their countrymen.

He was the product of those centuries during which the formative power developing the people of the United States proceeded from a race of men whose characters were affected by the calmness and serenity of rural life. The landholders of North and South, of New England and the Middle States, of Virginia and Georgia and the Carolinas, the people of all our States who, with their fathers, had owned their own land, had acknowledged—had known no superior, socially or politically, coming to manhood in self-respecting independence, with unhurried development of character, not feverish or hysterical, but reflective, calm, strong, considerate. These were the men who made the earlier history of our country, and from them came Senator DANIEL. A new life is urging forward the movements of our people. The rush, the haste, the tumult, the unthinking excitement of the struggle for wealth are displacing the old calmness and reflective training.

But, sir, the influence of which Senator DANIEL was a perhaps belated representative must remain if the great country which he served so well is to continue. Self-respect and respect for others, courtesy, consideration, sympathy, justice, all the qualities of the older time must be found among the people who govern themselves or their self-government will degenerate into the wild scramble that means strife, discord, conflict, and disintegration.

That Virginia has honored and does honor this gentleman of the old time, that this Senate loved him, that our country remembers him with grateful appreciation for what he was, all argue well for the soundness, the wholesomeness, the genuine spirit of patriotism that will preserve all that he represented. Long may it be before the life and the influence of that noble

race of men of whom he was so distinguished an example is forgotten in the councils of our Government or in the action of our people.

Mr. FLETCHER. Mr. President, Alexander, son of Philip of Macedon, became captain general of Greece, repelled the Persian invasion, captured the East, mourned that there were no more worlds to conquer, and died at the age of 32. The times were different from ours. There have been few Alexanders and no such conditions since.

Seventy-three years seems rather a generous allowance for the life of an individual, but for one capable of great service at a time when there is so much needed to be done, it appears but a short time. To obtain an education to fit one for a noble profession itself requires quite a few of those years. To become established in that profession and make a reputation for high proficiency requires time. To have such a career interrupted by active service in the field during a terrible war would consume quite a few years at a critical period in such a life. The governmental affairs of a great State, such as must be understood by the chief executive, are sufficiently important and exacting to occupy the best years of one's life. The position of associate justice of the supreme court of that State, with the onerous duties imposed in that high judicial capacity, might well amplify such a career and crown such a life.

Faithful and satisfactory service in these exalted positions would seem about all that could be well crowded into the life of one individual.

It must have been extraordinary qualifications for the widest fields of general public usefulness that moved SAMUEL DOUGLAS McENERY on to the national forum and caused him to be chosen by his people a Senator of the United States from the State of Louisiana in 1896, again in 1902, and again in 1908.

Rarely, I think, can it be found that so much has been accomplished in the years allotted to him. Seldom have such responsibilities been heaped on one man's shoulders. It required unusual capacity and ability of a high and varied character to successfully meet the obligations, discharge the duties, and perform the services which pressed upon our friend. That he squarely faced and completely mastered the difficulties of every situation; that he possessed a keen sense and correct conception of fiduciary responsibility, which he carried into practice; that he diligently and faithfully performed what was undertaken is demonstrated by the continued confidence of his people, which amounted to genuine affection and absolute trust.

His early and extensive mental training; the discipline and hardship of active army service; the stirring times, arousing every patriotic impulse and calling out the resources of his strong, intellectual, and moral nature, which he experienced in the days of young manhood, combined to equip him for the highest official station. Born at Monroe, La., May 28, 1837; educated at Spring Hill College and the University of Virginia; a lieutenant in the Confederate Army; engaging in the practicing of law; we find him governor of Louisiana when he was 44 years of age. At 51 he was associate justice of the supreme court of his State, and while occupying that position he was elected United States Senator.

On all matters with which he had to deal he consulted his own judgment and conscience, earnestly and seriously. Not that he was inconsiderate of others, or heedless of their opinions, or not respectful of the views of his fellows, but his final action had to square with his reason and his conscience. He was in every sense and in every relation and at all times a man as brave and self-reliant as ever stood in line of battle or conquered in the fiercer struggles of peace.

My last conversation with him was in the cloakroom just before the adjournment of the session June 25, 1910, and he did not complain of being ill, but seemed in his usual health, although somewhat wearied by the long session. He left Washington that night for his home and died in New Orleans soon after arriving there June 28, 1910.

Louisiana has lost an ideal citizen, a most faithful and efficient public officer, and the whole country shares in that loss. It saddens one to see such men of the old school pass away. While in the main I believe the world is growing better and progress is being made and development taking place, and men and things becoming more complete, perhaps more perfect, still there were some qualities peculiar to the times and lives of a generation ago which have been diluted rather than strengthened by the commercialism of the present. For instance, the polite and chivalrous manners, the deference and devotion to woman, the value of one's word, indicated by the saying, "his word is his bond," and the absence of hypocrisy.

We would do well, in the rush of things these days and in the evolution taking place in other directions, not to lose sight of these sturdy and beautiful traits of character.

I venture to say that the man can not be found who can truthfully assert that SAMUEL D. McENERY ever deceived him or failed to do precisely what he agreed to do.

Courteous in his bearing and kind and considerate in his disposition, he was likewise perfectly open and frank and always sincere.

He never shirked a duty or evaded a responsibility. He did what he considered to be right and had no apologies to make or explanations to offer. He illustrated the ancient Greek teaching—"to be rather than to seem" and "to do rather than to idle."

Like Henry Clay he could say, "I have no commiseration for princes. My sympathies are reserved for the great mass of mankind." And like the great commoner, I imagine he felt "it is the doctrine of thrones that man is too ignorant to govern himself." He loved his State and people with a devotion rarely equaled, and he desired to see them prosper. He felt a just pride in the Nation and strove to promote the welfare of all. His work is written in the history of his State and country.

As governor, he expressed in his message to the legislature his deep concern regarding the industrial growth of Louisiana and the development of her resources, saying "We must realize the fact that she is rich and force her to the front rank of States." He directed the way of her progress by urging legislation regarding assessments and taxation, finances, and improvement of the levees, and arousing interest in education. On the latter subject his message to the legislature took high ground to the effect that "the people of this State are prepared to approve any legislation that will secure an effective system of free elementary instruction."

Embalmed in sheep, to be preserved for all time, are his decisions rendered in the highest court of his State. As chief executive, his name and the result of his labors will be handed down to succeeding generations. As a Member of this body, he wrought and placed on the permanent records illustrations of his statesmanship and patriotism. So he is not to be forgotten, and reference to his life and work will evoke appreciation of his great ability and his exalted character.

At Kamakura, once the capital of eastern Japan, which boasted a population of more than a million in the days of its glory, the colossal statue of the great Buddha, all but 50 feet in height, stands near the sea. The casting was begun in 1252. Twice has the temple which inclosed it been swept away by a great tidal wave, the last time in 1494. But the great bronze figure still remains

A statue solid set,
And molded in colossal calm.

As a soldier in the Confederate Army under Magruder, as a lawyer, as governor, as judge, as United States Senator, SAMUEL D. McENERY has built a monument more lasting than this—one gratifying to the aspiring soul.

He has passed beyond our vision. It is a comforting thought that—

There is no end to the sky,
And the stars are everywhere,
And time is eternity,
And here is over there.

Mr. PERKINS. Mr. President—

Friend after friend departs;
Who hath not lost a friend?
There is no union here of hearts
That finds not here an end.

Mr. President, Senator DANIEL's death removed a very useful, a very prominent, and a very public-spirited Member of this Chamber and the State of Virginia a very distinguished and well-beloved son.

The warmth of feeling with which he was regarded by his fellow citizens was an index of his attitude toward them during his entire life, and the sincere grief manifested at his death by the Members of the Senate indicates in some measure the feeling which he inspired in the hearts of his colleagues.

In every period of his career Senator DANIEL exhibited that earnestness, unselfishness, and devotion to what he believed to be his highest duty which wins the admiration and respect of all earnest and thoughtful people.

During the Civil War his energy and talents were exerted to the utmost in the cause which called him into the field. The wounds he received bore witness to his bravery, and the high rank which he attained is evidence of his soldierly qualities and military ability.

After the peace his devotion to his people caused him to enter public life, where he demonstrated his unusual qualifications for public affairs and earned the respect and affection of the people of his State.

As a lawyer he had achieved a very high rank, and in certain branches of the law became an authority.

In Congress he developed to the full all those powers of application and persuasion which enable a legislator to get at the truth of any subject and to convince those who are to deal with it, and in work of this kind his absolute sincerity and anxiety for that only which is for the public good made him a power in the counsels of both the House and the Senate.

In all that he did as a member of the Virginia Legislature and as a Member of the Congress of the United States he strove earnestly and constantly to throw the cloak of oblivion over the dark past and to make it plain to all that we are citizens of an undivided country, to which is due absolute loyalty and that love which all should have for the most precious of earthly possessions.

God grant—

He once said—

that the departed era may return no more to our country.

It is the marvel of the world—

He again said—

that so far our unprecedented and unmatched Constitution has availed to preserve our inheritance and to keep alive here the hope and faith that the future may prove worthy of the past.

A greater people have never yet appeared upon this globe than the Americans, and it must solemnize any just mind to realize the responsibility which comes to it with the injunction to take heed that no ill befall the Republic.

The loyalty of Senator DANIEL to his country was equaled by his loyalty to his State. He was a true Virginian, believing in the grand old Commonwealth with all the strength of his generous nature and in its people with all the warmth of a great heart. Whatever was for the advantage of the Old Dominion, that he advocated and worked for with all the energy he possessed.

Without the enthusiasm which he brought to bear in the effort to secure the Jamestown Exposition, it is very doubtful whether it would have received the sanction of Congress. I know that many votes for it were secured purely through his eloquent advocacy and personal magnetism. He entered upon the contest as though the question were one of vital importance to his State, and he brought to bear all the dash and enthusiasm which characterized him on many a hard-fought battlefield in his youth. He won a victory for his people, for to him there was no such thing as defeat in such a cause.

For individual Virginians, as well as for the State as a whole, Senator DANIEL held himself ready to work for any good and worthy purpose, and it was through his efforts that much has been accomplished in the way of development and the promotion of prosperity.

As he said of the late Senator Hoar, so may we now say of him:

No man ever said or thought of him that he was the servant of personal ambition or of private ends. There are many things in heaven and in earth that can not be seen by our eyes or heard by our ears or touched by our hands or which are within the pale of our sense; more, indeed, than are dreamed of in your philosophy."

Hence many a noble aim may miss its mark however clear be the eye that discerns, however firm the will that directs, however true be the hand that obeys.

It is only possible to the human to be right in mind and conscience and to be sincere in heart.

So felt the prophet when he said: "Keep thy heart with all diligence, for out of it are the issues of life."

So did Senator DANIEL keep his heart.

He aimed his arrow at wrong wherever he thought he found it.

He lifted his shield over the right wherever he thought the right needed reinforcement.

It is only in such performance of duty that true glory may be found.

No one who knew Senator DANIEL could fail to be struck with the evidences of his wide reading and profound reflection. He was a scholar by instinct, habit, and training. Whenever he arose to speak he was listened to with pleasure and instruction, for he gave the results of long and careful study, enriched by gleanings from the domain of literature.

His was the eloquence which we find in the older school of statesmen, who strive to clothe their thoughts in the rich language of the great masters when felicity of expression was sought for as the proper setting for exalted ideas. His discourse in private had the same characteristics and formed one of his charms in social life.

I, as well as the rest of his colleagues, was warmly attached to him by reason of his genial companionship, which had the full flavor of that southern generosity and open-heartedness which have made the hospitality of the South proverbial throughout our land.

In my intercourse with him in the Senate on the Committees on Appropriations and Coast Defenses, of which we were both members, and in purely social life I found him steadfast to those high ideals which he had early set up for his guidance, and which had caused him to set a striking example to his fellow citizens in war and in peace.

His wide sympathies took in all classes of people and all parts of our great country, and he was ever on the alert to study conditions new to him and to gather therefrom ideas that might be made of benefit to all.

I shall never forget the interest he took in our great Pacific coast, when, as my guest in California, he had an opportunity to see the land over which the stories of the Argonauts has thrown an atmosphere of romance. He found there much to remind him of his own loved native State, and in the free, generous life of our people he felt himself back among the beautiful Virginia mountains and valleys.

We may say of Senator DANIEL as he once said in a eulogy of a former colleague:

He was typical of his State, of his section, and of his party, and he was distinctively a Representative in all he stood for.

Most of the great problems that engaged his thought and effort have found their solution through the processes of time, and new sails are now seen on the horizon before us.

As we seek to measure justly the men of the past we do not carry into our judgments the partisan feelings which inflamed them or their combatants in hours of conflict, for it is the happy faculty of a wholesome nature to take men according to the circumstances which environed them and according to the manner in which they dealt with their own obligations and duty.

Abraham Lincoln said on one occasion that he must confess that events had controlled him far more than he had controlled events; and if one who was at the head of such mighty power as he wielded could feel so sensitively how little any one man can do in the great movements of the human race, how much more must it be felt by those who play but minor parts in the drama that is in their time upon the stage.

And again:

The stroke that removes one who has long interwoven his life in the work of a great public body, who has bound himself in associations of friendship and cooperative tasks with his companions, who has become a part of the business of many constituents, who has stood forth as the representative of a great State, and as the champion of ideas, and, indeed, has translated his being into law and doctrine—such a stroke suddenly snaps many ties and dissolves many vistas of pleasant and instructive contemplation.

It must be to many, and it seems to all, as if a landmark of memory and hope and faith and affection had suddenly crumbled to the dust.

If we lift our gaze from the tomb of a single one who has departed to survey the scene of desolation which a few years make in the ranks of a body like this, we are well-nigh appalled to realize how swiftly and surely death consummates its work of change and dissolution.

In the words he used in acknowledging the worth of a former Member of this body, I may say concerning Senator DANIEL that not only California, "the younger sister of Virginia," not only the old 13 States that founded our fabric of Government, but all of the 45 American Commonwealths that to-day constitute the Republic, say this of him, who so nobly applied it to another:

He was faithful to truth as he saw it; to duty as he understood it; to constitutional liberty as he conceived it.

Man sees all things die around him. The bud and the blossom die.

The leaf and the tree die.

The birds of the air and the fishes of the sea, the creatures of the forest and the field and the desert; alike, they die.

Man, in this respect, is like them, and we see and feel and know within ourselves, as did our dying brother, that of a truth we die daily.

The days die and the nights die.

The weeks and the months and the years and the centuries and the seasons die.

Time itself, even as we call its name and with our every breath, dies away from us.

An eternity without beginning lies behind us—dead.

A faith so beautifully expressed can not fail to be a comfort and an inspiration to those who knew his kindly character. When all that was mortal of Senator DANIEL was deposited in that last peaceful resting place, amidst the pines of his native State, how cheering is the thought that he believed it to be but the narrow entry to a greater, nobler life—eternal in the heavens?

How well could our dear friend say in Tennyson's incomparable verse:

Sunset and evening star,
And one clear call for me!
And may there be no moaning of the bar
When I put out to sea.

Twilight and evening bell,
And after that the dark!
And may there be no sadness of farewell
When I embark;
For though from out our bourne of Time and Place
The flood may bear me far,
I hope to see my Pilot face to face,
When I have crossed the bar.

Mr. SMOOT. Mr. President, we are to-day reminded that almost half a score of our collaborators, who so recently were in our midst, have passed to that—

Thrice happy world, where glided toys
No more disturb our thoughts, no more pollute our joys!
There light and shade succeed no more by turns,
There reigns th' eternal sun with an unclouded ray,
There all is calm as night, yet all immortal day,
And truth forever shines, and love forever burns.

The death of SAMUEL DOUGLAS McENERY, at his home in New Orleans, on Tuesday, June 28, 1910, was a great shock to his colleagues in this body, yet it was not altogether unexpected. It had been evident for months that his health was failing him, although he was found always at work faithfully serving his State and his country. He engaged in the deliberations of the Senate up to the very day of adjournment, and then returned home to enter into immortal sleep.

A native of Louisiana, educated at the United States Naval Academy and the University of Virginia, a graduate from the State and National Law School at Poughkeepsie, N. Y., Senator McENERY obtained a technical mental training which well fitted him for the great problems which in later life pressed upon him for solution. When the Civil War broke out young McENERY had just reached his majority. He enlisted in the Confederate Army, serving through the war with marked distinction.

For more than 30 years Senator McENERY had been a leader in the political affairs of his State and Nation. Through his devotion to duty, his unflinching integrity, and his extraordinary ability, he has been honored with the high offices of lieutenant governor of Louisiana, governor of Louisiana, associate justice of the supreme court of Louisiana, and three times elected to the United States Senate.

Few men in public life have ever exhibited such independence of thought and action and shown such indomitable will to succeed as has Senator McENERY. These characteristics accompanied him through life. His attitude on various questions at different times under consideration in this body has been the comment of his countrymen throughout the United States; but he was ever true to his convictions and never hesitated to voice them either by word or by action regardless of criticism or public opinion. It was his frankness and honesty that won for him the profound respect and admiration of everyone. He defined his position on any subject with freedom, and remained true to it. He was not offensive in urging his views upon others, but fought with undaunted zeal to gain his point.

It is fitting and proper on this occasion that we give expression to the virtues of those who depart this life and to turn our thoughts to the life beyond. It would seem cruel, indeed, if the knowledge and the intelligence and the good works acquired and accomplished in this world of action should pass away forever like a puff of wind. There must be something after all in the great realms above which to the human mind is too glorious to comprehend. It is a very happy thought to contemplate the eternal life and progression of the spirit of mortal man. It is consoling in death to have a vivid realization of a continuation hereafter of association and friendship with those whom we so honor and love. Such thoughts and such hopes urge us on to nobler deeds and higher ideals.

In Senator McENERY we recognize the student, the lawyer, the soldier, the constructive State builder, the jurist, and the statesman. A stalwart for the right as he conceived it, devoted and true to his commissions, fearless and courageous, he won the esteem and confidence of everyone with whom he came in contact.

Senator McENERY's life was ripe in usefulness. He approached the grave—

Sustained and soothed
By an unflinching trust,
Like one that wraps the drapery of his couch
About him and lies down to pleasant dreams.

His more than three score years and ten were well spent, and to him might justly be applied the plaudit:

Well done, thou good and faithful servant; enter into thy rest.

Mr. SIMMONS. Mr. President, Virginia has greatly enriched our country by her successive contributions to the eminent men who have adorned public life. In his address in commemoration of the landing at Jamestown, President Tyler mentions that there came to Virginia in her early days many representatives of that landed gentry whose capacity and worth had elevated England to her glorious position among the nations. Their American descendants were not unworthy of their lineage. Many scions of this persistent stock have budded in Virginia soil and blossomed into perfect manhood, and in every generation Virginia thought and Virginia life have been ennobled by men cast in a superior mold, who compel our admiration and lead us, while wondering at their talents, to seek to emulate their virtues.

Although but three centuries have as yet elapsed, in the long roll of eminent Virginians we can find examples of public worth that vie with the most famous characters of storied Greece and imperial Rome.

It was the fortune of our lamented friend, JOHN WARWICK DANIEL, to have brought the list of these illustrious Virginians down into our own times. He entered public life as the elder statesmen of the Old Dominion were passing away, but the names of Tyler, Stuart, Hunter, Wise, Baldwin, Conrad, Randolph, Seddon, and other distinguished actors in public affairs were still lingering on the tongues of men when he came to his work in this high forum. He was, like them, bred in the atmosphere of the ancient dominion, and feeling the pulsations of the former time. He was nourished in his youth amid the influences of the old régime, and like some vigorous giant of the forest he threw out his roots deep down into the soil of Virginia, and in every fiber he was the product of that Commonwealth of high thought and great action which have won for her the proud title of mother of statesmen. But each generation has its vicissitudes that exert a distinctive influence in the formative period of character. Like the earlier statesmen following the close of the Revolution, DANIEL had passed through the fiery ordeal of war. Thus it happened that his manhood had been perfected in his youth, and his military experiences had strengthened his resolution and had imbued him with unusual fortitude. So often had he been in imminent peril, so often had he looked with composure as death made havoc on either side and companions fell about him, that his very nature became permeated by a heroic disregard of all considerations save alone the strict performance of personal duty.

Thrice wounded, he suffered painfully, and although he survived, the old wounds of the battle field finally hastened him to the grave.

Trained as a lawyer in association with his estimable father, Judge Daniel, he knew none of the arts of shrewd pettifoggers, but built on the bedrock of comprehensive jurisprudence. Thus, not unnaturally, he became an author, and his work on Negotiable Instruments at once attests his industry, his juridical learning, and his legal acumen. Immediately this valuable compendium of the law was received by the courts as authority, and had his life then ceased his monument was already erected.

But Virginia realized his worth, and the most coveted honors his people could bestow freely awaited him.

In 1887, transferred from the House of Representatives to this body, he entered on a career, honorable not alone to himself but to the great State whose political traditions he so admirably maintained.

Well equipped, familiar with public questions, with a mind trained by exacting study, and richly endowed with logical powers, he was at once accorded an enviable position among the distinguished Senators of that period.

His particular associates—those southern Senators with whom naturally he became most intimate—had, like himself, been actors in the struggle between the sections, and, animated by a large patriotism, were ardently seeking to reestablish fraternal relation among the people of the Union, while zealously laboring to promote the happiness and prosperity of the Southern States.

There were the mighty Vance and the wise Ransom; the noble Hampton and the accomplished Butler; the brilliant Gordon and still more brilliant Hill; Pugh and Morgan; Walthall and George; Gibson and Eustis; Bate and Isham G. Harris; Beck and Blackburn; Vest and Cockrell; Kenna and Faulkner; Reagan and Berry—a galaxy of representative southerners, uniting shining talents with rare excellence of personal character. In their midst the accomplished Senator from Virginia found his appropriate place, and with them he illustrated in this forum those sterling virtues that have long been ascribed to the most distinguished of our southern statesmen.

Four times was he elected a Senator, and the years of his service here covered a period of remarkable interest in the annals of our country. It was while he was giving voice to Virginia's patriotism in this Hall that Fitzhugh Lee and Wheeler, once Confederates, were leading to glorious victory the boys in blue on foreign soil, and the embers of the long war were finally and forever extinguished.

Momentous measures constantly arose to claim the attention of the statesmen of that period, and Mr. DANIEL's positions were always comprehensive, liberal, and patriotic. He was not merely a representative of Virginia, but a Senator of the United States, his great heart beating in unison with the mighty pulsations of the entire Nation.

His fame extended throughout the confines of the Union, and his name became a household word at the South, and especially in the homes of the people of North Carolina. Close to Virginia, North Carolina watched with pleasure and with pride the brilliant career of this illustrious son of the Old Dominion

and cherished for him a personal attachment and a particular regard.

The people of that State were ever in sympathy with his positions on public affairs and fully recognized his sterling worth and eminent services.

But as splendid as was his performance in this forum, his chief triumph came to him outside of these walls.

When the Nation's memorial to the immortal Washington was finished and an orator was to pronounce the eulogium on the great Virginian, DANIEL was selected as the fittest American of his generation to embody the sentiments of his countrymen in harmonious language.

As an orator he was superb, and on that memorable occasion his surpassing eloquence received the plaudits of the continent. Indeed, as distinguished as he was as a thinker, a man of learning and as a statesman, it was as an orator of superlative powers that he won his highest title to fame. He possessed the creative faculty in extraordinary measure; and, indeed, it might well have been of him that Gladstone wrote:

He has a delicate insight into beauty, a refined perception of harmony, a faculty of suggestion, an eye both in the physical and moral world for motion, light, and color; a sympathetic and close observer of nature, a dominance of constructive faculties, and that rare gift—the thorough mastery and loving use of his native tongue.

And how well does this further quotation describe the style of his finished addresses:

It is paramount in the union of ease of movement with perspicuity of matter, of both with real splendor, and of all with immense rapidity and striking force. From any other pen such masses of ornament would be tawdry, with him they are only rich. Like Pascal, he makes the heaviest subject light; like Burke, he embellishes the barrenest. When he walks over arid plains the springs of milk and honey seem to rise beneath his tread. The repast he serves is always sumptuous, but it seems to create an appetite proportionate to its abundance.

As Senator DANIEL's distinction was founded on eminent merit he wore his honors with graceful ease, and with his varied accomplishments there were united a generosity and an urbanity of carriage that rendered him an agreeable companion.

He was cordial, genial, bright, always full of hope, looking to the future with confidence as if it ever presented to his view the rainbow of promise.

With such a social bearing, intercourse with him easily ripened into affectionate regard; and not merely was he admired and esteemed, but there was a gentler touch that drew his friends close bound to him.

So that when at length he was detained from his accustomed place in this hall and when the sufferings of the last days came there was a genuine sympathy felt here that penetrated every heart. In that protracted struggle, hovering between life and death, he bore himself manfully. There was no falling away.

His resolution never quailed. His spirit was firm to the end. Undaunted he saw that dread vision, which in strength and health seems so remote, draw nearer and nearer, and without a vain regret he entered on the experiences of the world beyond. Recalling his fortitude in that dark hour, may not we, his associates, hold the conviction that not merely was he sustained by the assurances of that Christian faith whose precepts he observed, but that boldly and without fear or misgiving he essayed the passage to the bosom of the illimitable ocean of the mysterious future well buttressed and buoyed by the confident hope expressed by the poet:

And though from out our bourne of time and place
The flood may bear me far,
I hope to see my Pilot face to face,
When I have crossed the bar.

Mr. SWANSON. Mr. President, it is with profound misgivings that I undertake to make a fitting tribute to the character, the worth, the achievements, and the genius of the illustrious lawyer, orator, statesman, and soldier in whose memory these memorial exercises are held. I realize that I can but feebly express the great sorrow entertained by the people of Virginia at his untimely death, and their deep love and admiration, mingled with a profound reverence, for his splendid virtues, his varied and brilliant achievements. Of all the eminent public men who have adorned and illumined the history of Virginia none of them ever had a longer career of success and approval; none ever retained more continuously the abiding and abounding love of her people. He was so entrenched in the confidence and affection of the people of Virginia that no faction dared to assail him, no demands of partisan politics could induce even the most reckless and unscrupulous to attack him. For more than a decade the clouds and storms of party and political strife have been unable to reach the lofty heights to which the esteem and the love of the Virginia people lifted him.

In Virginia he stood preeminent; above all others, surrounded with a halo of universal love, admiration, and reverence. He

had worthily won this rare, peculiar place and this high distinction from his native State. No Virginian who ever lived had heart stirred with a purer patriotism or thrilled with a deeper love for Virginia than Senator DANIEL.

From early manhood to the hour of his death, in peace, in war, in the dark hours of her gloom and defeat, this devoted son of Virginia firmly, faithfully, and fearlessly served her. Virginia's honor was his honor; her wrongs were his wrongs; her failures his failures; her success was his success. In his deep, passionate nature flamed an eternal love for his State.

Senator DANIEL was the very highest type of a Virginian; a name synonymous with the most attractive and most splendid qualities of human character. Sunshine scintillated from every lineament of his pleasing face; geniality radiated from his warm, generous heart; a rare knightly courtesy characterized his manly deportment. To women he ever extended a deference and reverence, bespeaking innate refinement and purity. A devoted husband and father, a kindly neighbor, a loyal friend, he possessed in a marked degree those sterling Anglo-Saxon home virtues which have constituted the foundation of its greatness and has made it the world's conquering race. When interested his conversational powers, whether on light or weighty matters, were unexcelled. His deference to and consideration for others were noted and at once won the hearts of those with whom he was brought in contact. No person whom I have ever seen surpassed him in pleasing personality or possessed in a superior degree every indication of distinction. His Roman face and features of rare and unexcelled beauty ever radiated with luminous thought and gleamed with the sunlight of genius. These attractive personal traits were adornments that gave charm to a strong manly nature. He was a man of tireless energy, strong convictions, superb moral and physical courage. No misfortune could bring despair to his brave and stout heart. No personal sorrow, no great disappointment could retard his dauntless spirit in its effort for achievement. Though born and reared amid all the surroundings of wealth and luxury, yet when the misfortunes of Civil War swept all of these away, manfully, cheerfully, he accepted the changed conditions of poverty and hardship and struggled to earn a competence for himself and others, and with no assistance but what came to him from a brave heart and a great mind, he attained the fame and the prominence which afterwards came to him.

Though defeated twice in his efforts to be governor of Virginia and twice in his efforts to become a Member of the House of Representatives, yet he did not despair, and by his conduct and magnificent bearing in the hours of defeat proved himself worthy of success, acquired the confidence of the people and captivated their affections until he obtained every honor and distinction that Virginia could bestow and was elected for five terms as a Member of this honorable body. Thus, alike in defeat and in victory, he displayed his preeminence and greatness.

Senator DANIEL was a man of positive convictions, and without a shadow of turning adhered firmly and steadily to his party's tenets. For more than 30 years he was one of the ablest and most eloquent defenders of Democratic principles in this Nation. On the hustings, in the press, in the legislative halls of State and Nation he was the bold, brave champion of Democracy—one of its acknowledged and most beloved leaders. In his early life, when rejected repeatedly by the Democratic Party, he manfully acquiesced, never sulked or swerved from party fealty. He proved himself too good and too great a man to desert his people because they failed to crown him king.

Senator DANIEL was a man of absolute scrupulous honesty. A great orator has well said:

Honesty is the oak around which all other virtues cling, without that they fall and groveling die in weeds and dust.

The paths of his public life were crowded with vast power, responsibility, and opportunity, yet no stain ever followed his footsteps. His pure clean hands were never soiled by the betrayal of public or private trust.

Senator DANIEL was a man of unflinching courage and intrepid spirit. When the war between the States commenced he was a youth of 19 years; yet so ardent was his patriotism, so brave his heart, so resolute his will that he at once volunteered and was commissioned as a second lieutenant in the Twenty-seventh Virginia Regiment, a part of the Stonewall Brigade. Nothing can be more heroic, no picture more striking than that of this beardless youth charging with the Twenty-seventh Virginia Regiment at the Battle of First Manassas, and aiding in winning that great victory which made the name of Stonewall Jackson immortal. I shall ever remember the vivid descriptions I have heard him give of his experiences in this terrific battle—his first baptism in blood and

war. His gallantry, his courage, his aptitude for war soon won him distinction and secured for him rapid promotion; he became major and chief of staff for Gen. Jubal A. Early. He displayed special skill and gallantry as a staff officer at Boonesboro and at Sharpsburg, the fiercest and bloodiest battle of the war. He also rendered conspicuous service as chief of Gen. Early's staff in Gen. Lee's second invasion of Maryland, which culminated in the Battle of Gettysburg.

During his three years of continuous service in the Confederate Army he participated in the campaigns of the Army of Northern Virginia, shared all of its privations and dangers, fought gallantly in its fierce and stubborn battles, winning daily new honors for devotion to duty, for courage and gallantry. During the service he received four wounds, the last one being of a serious and dangerous nature, which made him a cripple and a sufferer from unremitting pain until his death. On the 6th of May, 1864, during the battle of the Wilderness, recognizing that an emergency existed and believing that the troops needed a mounted officer to lead them on a difficult and perilous charge, though it was not his duty, he volunteered, and was gallantly leading the Thirty-third Regiment of the old Stonewall Brigade when he was dangerously wounded, his thigh being shattered by the bullets of the enemy. Thus this hero fell wounded while his comrades marched on to victory inspired by his gallantry and genius. This wound rendered him useless for active service in the field. But for this wound there is every reason to believe that on account of his high reputation, his splendid record, his gallantry and genius for war, he would very soon have been promoted to brigadier general, possible the youngest in the Confederate Army.

Thus, while a mere youth, he displayed in a striking degree those qualities of energy, quickness of conception and action, courage, willing endurance of toil and privation, which make a great soldier. His record in the Army, his writings and discussions upon military questions, indicate that with further opportunity he would have attained great success and distinction as a most capable soldier.

Mr. President, the great reputation which he acquired in youth as a soldier was but a prelude to the greater eminence which afterwards came to him as a lawyer, orator, and statesman. In each of these three great departments of human endeavor he labored successfully and acquired great fame. In the great profession of law, which requires for success discriminating judgment, acute intellect, clear and logical reasoning, he early became one of the most successful and foremost members of the bar of his native State, noted for its able and eminent lawyers. In many new and perplexing legal problems presented for decision by the courts occasioned by the Civil War and the many social and financial upheavals incident thereto, he was counsel, and by his legal learning and clear reasoning fixed the law governing these cases and conditions. His many briefs and arguments presented to the court of appeals of his native State on new and important legal questions of this character would alone constitute a successful life-work of a lawyer.

Whether addressing court or jury, no one could surpass him as an advocate, no one present a case more strongly and clearly. No one could work more incessantly and without producing fatigue of mind or body. During his whole life, when occasion required it, he was the very incarnation of tireless work and energy. One has but to read the reports of the supreme court of appeals of Virginia during the years of his early life, when he was in active practice, to obtain evidence of his greatness as a lawyer and of the immense and successful practice he possessed.

What is still more remarkable, while actively engaged in prosecuting the profession of law, with a large and lucrative practice, his spare moments were utilized in the preparation of two law textbooks, "Daniel on Attachments" and "Daniel on Negotiable Instruments." His latter work, "Daniel on Negotiable Instruments," is the best, most complete, and the recognized authority on this question, not only in the United States but also in the English-speaking world. It is conceded that Daniel on Negotiable Instruments, Cooley on Constitutional Limitations, and Benjamin on Sales are the three great law textbooks of our generation. It is amazing that a young man, actively engaged in the practice of law, with an immense practice, engaged at the same time in the turmoil and strife of political life, could have found leisure to prepare such a textbook on such an intricate subject of law, containing an immense amount of research and a rare combination of detail and generalization, with such clearness of expression and breadth of conception as to make it an acknowledged authority, and so successful that it has gone through repeated editions. It furnishes proof of the breadth of his intellect and the bril-

liance of his varied attainments. His legal acquirements were such that he would have adorned, with his intellect and learning, the Supreme Court of the United States.

Mr. President, a great lawyer is naturally a successful and constructive statesman. The history of the legislation of the world exemplifies this. Thus it should occasion no surprise that Senator DANIEL's eminence as a lawyer was equally signalized in his work as a legislator. In his native State he served in the house of delegates from 1869 to 1871, and in the State senate from 1875 to 1881, and also in the recent constitutional convention, which prepared the present State constitution. He was easily the leader in each of these legislative bodies during the time he served. Many of the best and most important institutions, many of the wisest and most far-reaching laws of the State are the results of his constructive handiwork.

He was one of the pioneers and foremost advocates of the establishment of free schools in Virginia, with all of their resultant blessings and benefits. He was the author of the law in Virginia giving the employees of transportation companies the first lien upon the property of the companies for their wages and also the law permitting the personal representative of a decedent to recover damages for the death of the intestant, when occasioned by the wrongful act of a corporation. He was the originator and the promoter of the measure giving the counties, cities, and towns of the Commonwealth power to tax the railroads within their borders, which measure alone has been the source of inestimable benefit and progress to the State. In the last State constitutional convention he was the author of the suffrage provision, which was finally adopted as a part of the constitution of Virginia, and thus he successfully solved the most difficult and perplexing problem that confronted the convention.

Time will not permit me to enumerate the many beneficent laws which his mind conceived, his hand wrote, and he enacted for the betterment of the people of Virginia. Suffice it to say that though his services in the legislative halls of his State were limited, yet Virginia can point to no son whose achievements in State legislation can exceed his.

He served two years in the House of Representatives and 23 years as Senator in this honorable body. From the day of his entrance here to his death he occupied a most prominent position in the deliberations of this body. For years he was one of the most influential members of the Committee on Foreign Relations of the Senate and counseled and controlled as much as anyone our relations with foreign nations. He was an active and distinguished member of the great Appropriations and Finance Committees of the Senate, and thus potential in all matters affecting the appropriations and revenues of the Government. His many able and eloquent speeches upon constitutional questions, control and regulation of railroads, restraint of trusts and combinations of capital, currency and banking, tariff taxes, other various questions of taxation, and many other subjects, clearly indicate the extensive scope of his research, intellect, and ability. Upon all the important questions that came before the Senate during his service, in just conception, in thorough study, in full realization of the important and far-reaching bearings, he was excelled by none.

By his services in the Senate he acquired a national reputation for statesmanship, ability, courage of convictions, and soundness of judgment. The esteem and admiration entertained for him were co-extensive with our National Government. If he had lived in some other section of this country besides the South many years ago he would have been nominated on the Democratic ticket for the Presidency, with splendid chances of success. He possessed those qualities of mind, heart, and will which would have made a great President—fit company for the illustrious Virginians who had so well filled this high and exalted position. At the Chicago convention in 1896, so profound and extensive was the esteem and admiration of the Democratic Party for him that he could easily have had the nomination for Vice President if he would have accepted it. He unselfishly waved this honor aside for what he believed was to the best interest of his party.

In all that constitutes true, broad statesmanship Senator DANIEL was preeminently endowed, and if Virginia had been as potential in this Nation as she was in former times, possessing as he did the universal confidence and admiration of his native State, he would have attained position as high and influence as great as that wielded by the illustrious Virginians in the early days of this Republic. In character and capacity he measured up to these great men.

Mr. President, as great and varied as were these endowments, yet nature had given him other gifts richer and rarer. He possessed the divine power of eloquence. He gave new graces to speech; taught new charms to eloquence. His brilliant,

flashing eyes, his stirring musical voice, his apt and beautiful gestures, his exquisite expressive features, beaming with fire, intelligence, and genius, gave him a charm and power of oratory rarely surpassed. He was equally the master of pathos and humor. He could reason with irresistible logic to the court and afterwards easily draw tears from the jury by a passionate appeal. He was equally at home in the rough and tumble conflicts on the hustings or in the dignified debates of the Senate. He could deliver a literary address of great beauty and elegance and afterwards discuss a great constitutional question with a majestic flow of thought and intellect. His literary taste was unexcelled; his illustrations original and impressive; his diction pure and classic. His addresses were broadly and splendidly conceived and beautifully executed.

His addresses unveiling the Lee monument at Lexington, Va., and the Washington Monument in this city are masterpieces, and will be read and studied as long as eloquence is cherished. These two orations, in beauty of conception and expression, are equal to any of his generation. His address upon the Battle of Gettysburg in vividness, clearness, and eloquence of description can not be surpassed. His addresses upon the life and character of Jefferson Davis and to the Congress of the United States commemorating the centennial of the building of Washington would alone place him in the first rank as an orator. Though his lips are now silent, he will eloquently speak to generations yet to come in the splendid classical orations which will be preserved as a part of the best specimens of the eloquence of his generation.

Mr. President, these many and varied brilliant qualities were combined with a great soundness of judgment and great political sagacity. Ere he attained the age of 40 he became the acknowledged leader of the Virginia Democracy, which position he held unimpaired and undisputed until his death. So wise was his counsel, so sagacious his judgment, that in all these years of leadership he never lost but one political battle, and that was in 1881, which defeat he quickly repaired, and from that time on he led his party to continuous victories and triumphs. For the last 30 years he drew nearly every platform of the Democratic Party of his State. Thus beneath his brilliant, shining qualities were embedded great prudence, judgment, and wisdom. These qualities enabled him to successfully encounter great political storms and upheavals, and be honored with the rare distinction of being elected five times to this honorable body practically without opposition.

Mr. President, the character of Senator DANIEL and the natural aspect of his native State always to me seem to have a strange and striking conformity. Virginia is largely composed of rich, fertile fields; large and broad plains, decorated with hill and mountain scenery of surpassing beauty. So with this great son. He was endowed with a strong, broad, masculine mind and heart, sparkling with the fascinations of a charming personality and glittering with the coruscations of eloquence and genius.

Sirs, the greatest of all English novelists in his masterpiece, "Vanity Fair," has truly said:

The world is a looking-glass and casts back to each man the reflection of his own face; if he smiles upon the world, it smiles upon him; if he frowns upon it, it frowns upon him; if he hates it, it hates him; if he loves it, it loves him.

How profoundly is this truth illustrated in the magnificent career of this distinguished soldier, lawyer, statesman, orator, and leader! He faced the world with a genial, tender smile and it received him with open, loving arms. He loved humanity and he lived and died the idol of his people. He trusted the people, and with implicit confidence his people, with loving faith, placed their hands in his and followed his leadership and guidance. His people showered upon him great honors and important trusts.

Well might we of Virginia feel a pardonable pride and a laudable love and admiration for our famous soldier boy, our eminent lawyer, our illustrious statesman, our brilliant orator, our sagacious leader!

Mr. President, Carlyle in his splendid essay on Voltaire has truthfully said:

The life of every man is as the wellspring of a stream, whose small beginnings are, indeed, plain to all, but whose ultimate course and destination as it winds through the expanse of infinite years only the Omniscient can discern. Will it mingle with the neighboring rivulets as a tributary, or receive them as their sovereign? Is it to be a nameless brook, and will its tiny waters among millions of other brooks and rills increase the current of some world-famed river? Or is it to be itself a Rhine, a Danube, an Amazon, whose goings forth are to the utmost lands, its floods an everlasting boundary line of the globe, itself the bulwark and highway of whole kingdoms and continents?

As to which a man's life shall be, whether a tiny stream, giving the current of its life to others, or a magnificent river, receiving the waters of smaller rivulets, depends largely upon

one's talents and opportunities, but more than all else upon one's efforts, will, and ambition. Senator DANIEL, possessing high qualities of mind and splendid talents, aspiring and ambitious, chose to make and did make the stream of his life as it ran with its pure waters to the great eternal ocean a large and majestic river, known far and wide, fertilizing broad fields, enriching States, and carrying on its bosom rich treasure for his country and mankind. It is by the lives and sacrifices of such men that States and nations are made strong and great.

A poet has well expressed it:

What builds a nation's pillars high,
What makes it great and strong?
What makes it mighty to defy
The foes that 'round it throng?
Not gold, but only men can make
A nation great and strong;
Men, who for truth and honor's sake,
Hold still and suffer long.
Brave men, who work while others sleep,
Who dare when others sigh;
They build a nation's pillars deep
And lift it to the sky.

Mr. THORNTON. Mr. President, there is at least one reason why these ceremonies affect me in a different manner than they affect any other Senator, save, perhaps, one; and that reason is the fact that my presence as a Member of this body was caused by the death of one of those in whose honor these ceremonies are being held. I can not therefore on this occasion divest myself of the thought that the great gain which has come to me has been at the expense of the great loss to his family, to his friends, to his State, and to his country of him to whose seat in this Chamber I have succeeded.

I can not expect during my comparatively short tenure of office as a Senator of the United States to equal him in point of good service to our common country and State; but I can remember his devotion to the interests of both as they appeared unto him and, to the best of my ability, try to emulate him in the desire for the discharge of duty as it appears unto me. In that expression, "The desire for the discharge of duty," perhaps can be found the keynote of his character, the principle that molded all his public actions, his desire to do his duty as he saw it.

In the first flush of young manhood at the beginning of the Civil War, true to his convictions of duty, he volunteered in the Confederate Army and fought to the end of that strife for what he considered to be the rights of his State and of her sister States of the South joined with her in that common cause. At the end of that terrible strife he returned to his home and took up the profession of law as a means of livelihood. During his legal career he proved his adherence to his professional duties. In the trying times of reconstruction he proved himself faithful to the duty of assisting in the redemption of his State from corruption and misrule, and shortly after the restoration of white supremacy in Louisiana he was called by her people to discharge the duties of the second highest position in the executive branch of the State government, that of lieutenant governor. Then for seven years he filled the highest position in that branch, that of governor. During his incumbency of those great offices he knew no motive in molding his public action higher than the desire to serve the interests of the State he loved so well.

Shortly after his retirement from the office of governor he was tendered and accepted the appointment of associate justice of the supreme court of Louisiana, and filled that position with both honor and ability. It was during his incumbency of that office that Louisiana passed through the stormiest period of her political history since the days of reconstruction—the great antilobby fight as it is known, the most conspicuous leaders on that side being the present Chief Justice of the United States and the present senior Senator from the State of Louisiana [Mr. FOSTER], the latter being the successful candidate for governor in that memorable contest. But though Justice McENERY was defeated as the candidate of the lottery forces and supported likewise by some who declared themselves opposed to the extension of the franchise, which in public statements he declared to be his own position, he passed through that fierce and bitter political strife without a breath of suspicion being directed toward his personal integrity.

In 1896, while still on the supreme bench in Louisiana, he was called on by the regular Democratic Party to save it from defeat in the senatorial contest then pending in the general assembly, and as the only man in Louisiana who could save it from defeat at that time. To this call of duty he responded and was elected and took his seat in this body in 1897.

His public history from that time to the period of his death in 1910 is a part of the history of the United States, and I may add of the Nation. How well he discharged his duty here to

his country and to his State the records of the Senate and the testimony of his colleagues therein can tell.

Louisiana has never had and she never will have a Senator who loved her better or was more anxious to do his duty by her as he understood it. And that duty he discharged regardless of criticism or of consequences.

In private life he may have been not without his faults, as other strong characters are not without them; but for one I believe that the man who possesses no faults will be found to possess not many of the strong virtues. He loved his family, his friends, his State, and his country, and that is saying much for any man.

I do not know how I can more appropriately close these brief remarks concerning him than in the language of the governor of Louisiana conveying to the general assembly of that State the official notification of his death:

SAMUEL DOUGLAS McENERY was distinctly a Louisianian; his career is interwoven with her history, and she never claimed a son that had a stronger hold on her affections.

As a friend he was loyal beyond measure; as a citizen patriotism moved him to action; as a statesman he was a profound thinker, broad and liberal in his ideas and determined every question by the standard of right and wrong. Fond memories of him will ever find an abiding place in the heart of every Louisianian now living, and future generations will remember him as one of Louisiana's sons who never forgot a friend or betrayed a trust.

Mr. MONEY. Mr. President, Shakespeare in speaking of a great contemporary poet condensed a volume of eulogy into four words—

O rare Ben Jonson.

I could say as justly, "O rare JOHN DANIEL." In advanced thought and in thorough appreciation of the intellectual development of the age, he was among the first men of his time; but in certain phases of character he was an anachronism. He lived in an age that is past, when to be a gentleman was above all title and all place. Without any taint of the commercial spirit of the age, without a disposition to extravagance in living, it may be said of him as once was said of a great British secretary—"modern degeneracy had not reached him."

The oratory of JOHN DANIEL was of the ornate sort as to the vehicle, and the ideas it conveyed were profound. It was said of Edmund Burke, whose oratory made him the master of the British House at the age of 34, that his eloquence was always captivating, but not always convincing. DANIEL could convince as well as charm, and while the oratory is not always logical it is well to remember that his great book, *Daniel on Negotiable Instruments*, is the authority at home and in English-speaking courts abroad, and that book could have been the product only of a great logical mind. I mention him with Burke, because to me they seem more nearly than any other two moderns in the splendor of their rhetoric and in the force of their ideas to approach the "melodious thunder of Tully's eloquence."

DANIEL was a proud man, without vanity; a proud man in the sense that he never forfeited his self-respect by doing a mean, a small, or an ungenerous thing. Respecting himself, he expected to receive the respect of every man; and he was not disappointed. DANIEL never talked loud and never talked about anybody. He was exceedingly chary in expressing his opinion of men, and while enjoying an intimacy with him of which I am proud, I never heard him speak disparagingly of anyone. When he gave an opinion it was always in the most temperate language.

He was reserved in his manner, although exercising always the utmost courtesy—the politeness of a well-bred man toward everyone who came in contact with him, whether they were great or small. No man was of increased importance on account of official position or wealth in his estimation. He was not disposed to make a show of his opinions, and much less of his emotions. He was not a talkative man; but when much interested he spoke with beauty and force. Beneath his reserve, he was a man of the warmest affections and the strongest feelings.

His afflictions, which were great, were not generally known to the world. He did not expose his misfortunes and challenge sympathy. He wanted no man's pity, no man's commiseration. Self-reliant, he received the shocks of grief and the misfortunes that came to him with a composure that was no index to the feeling within.

I doubt if any man in this Senate, at any time, was ever more respected by all, admired by many, and most deeply loved by a few. He could not be promiscuous in the relations of friendship; he treated all with courtesy, but few were admitted into his heart.

The great State which her own citizens love to call the "Old Dominion" has been generous in her gifts to this Nation in her

great men in the highest standard of character, and in her State institutions. Among her generous gifts there is none that was richer than JOHN WARWICK DANIEL.

He may have been said to have had within himself the accumulation of generations of talents. His father and his grandfather were orators, great lawyers, and judges of the supreme court of Virginia. His grandfather's cousin was an Associate Justice of the Supreme Court of the United States. He might well have been descended from an English poet laureate of the sixteenth century, to whom admiring critics gave the unique title of "Well-languaged Daniel."

His worth was early discovered, and he was called successively to the lower and upper house of the Assembly of Virginia, where he distinguished himself by his devotion to popular rights and his sagacious forethought.

When quite a young man he was nominated for governor of Virginia, and made one of the most brilliant campaigns in the history of that State. DANIEL considered this a fight for the honor of Old Virginia, and with his punctilious ideas of honor, he looked upon the readjustment of Virginia's debt as an assault by a part of her citizens upon her good name. He entered the campaign with an honorable ambition of preserving the escutcheon of his State from blemish, and with the real gaudia certaminis, he entered the fight eager to end the quarrel by "push of pike and stroke of sword."

While he was defeated, yet he reaped an abundant reward for he was selected, and forever, as the popular hero and favorite of his State, to whom no honor in the future was to be denied.

Senator DANIEL was, in one sense, a bookworm—a man who read at every opportunity a busy practical life permitted. He loved books; they were his treasures, and he found a charm in them which was known to few men. His thorough learning was acknowledged by two great institutions, the Washington and Lee University and the University of Michigan awarding him the degree of bachelor of laws.

Soon after our acquaintance began DANIEL became to me a curious study. He was unlike any one else whom I knew. The deep respect I had for his character and abilities soon ripened into a warm and affectionate friendship, and, counting many friends whom I love, no one could be more sadly missed by me than this heroic and gentle soul.

"After life's fitful fever he sleeps well," and in that other and better place or condition of the soul's existence, where the good and the great of this world are associated eternally, there will be found JOHN WARWICK DANIEL.

Mr. THORNTON. Mr. President, I move, as a further mark of respect to the memory of Mr. DANIEL and Mr. McENERY, that the Senate do now adjourn.

The motion was unanimously agreed to, and (at 5 o'clock and 45 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, February 21, 1911, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

Monday, February 20, 1911.

(Continuation of proceedings of legislative day of Friday, Feb. 17, 1911.)

The recess having expired, the House, at 10 o'clock a. m. on Monday, February 20, 1911, resumed its session.

Mr. BENNET of New York. Mr. Speaker, I make the point of order that no quorum is present.

The SPEAKER. Evidently a quorum is not present.

Mr. AUSTIN. I move a call of the House.

A call of the House was ordered.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Alken	Capron	Diekema	Foelker
Ames	Cassidy	Dies	Fordney
Andrus	Clark, Mo.	Dixon, Ind.	Fornes
Anthony	Collier	Driscoll, D. A.	Foss
Barclay	Conry	Driscoll, M. E.	Fowler
Bartlett, Nev.	Cooper, Pa.	Durey	Gaines
Bates	Coudrey	Ellerbe	Gallagher
Bennett, Ky.	Covington	Ellis	Gardner, N. J.
Bingham	Cowles	Elvins	Garner, Pa.
Bowers	Cox, Ohio	Englebright	Gill, Md.
Brantley	Craig	Estopinal	Gill, Mo.
Broussard	Davidson	Fairchild	Gillespie
Burke, Pa.	Davis	Fassett	Gillett
Burleigh	Denby	Finley	Glass
Byrd	Dent	Fish	Goebel
Calderhead	Dickson, Miss.	Focht	Goldfogle